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INTERNATIONAL COMMISSION OF JURISTS

# ACTS, RESOLUTIONS AND DOCUMENTS.

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FIRST ASSEMBLY HELD IN RIO DE JANEIRO

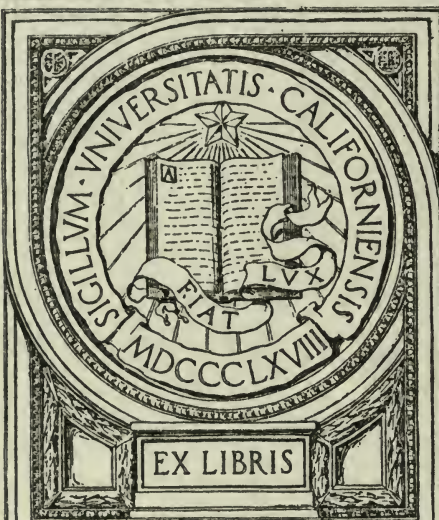
Between June 26th and July 19th, 1912.



RIO DE JANEIRO

1914

EXCHANGE



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INTERNATIONAL COMMISSION OF JURISTS

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# ACTS, RESOLUTIONS AND DOCUMENTS.

FIRST ASSEMBLY IN RIO DE JANEIRO.

(From June 26th to July 19th, 1912.)



RIO DE JANEIRO

1914

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Preceding Acts

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## CONVENTION OF THE 23rd OF AUGUST, 1906.

Their Excellencies the Presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panamá, Cuba, Dominican Republic, Perú, Salvador, Costa Rica, United States of Mexico, Guatemala, Uruguay, Argentine Republic, Nicaragua, United States of Brazil, United States of America and Chili;

Desiring that their respective Countries should be represented in the Third International American Conference; sent to the same, duly authorized to approve the suggestions, motions, conventions and treaties that they judged useful to the interests of America, the following Delegates:

Ecuador — Dr. Emilio Azévalo, Olmedo Alfaro.

Paraguay — Manuel Gondra, Arsenio Lopez Decoud, Gualberto Cardús y Huerta.

Bolivia — Dr. Alberto Gutiérrez, Dr. Carlos V. Romero.

Colombia — Rafael Uribe Uribe, Dr. Guilherme Valencia.

Honduras — Fausto Dávila.

Panamá — Dr. José Domingo de Obaldia

Cuba — Dr. Gonzalo de Quesada, Rafael Montoro, Dr. Antonio Gonzáles Lanuza.

Dominican Republic — E. C. Joubert.

Perú — Dr. Eugenio Labarrure y Unanue, Dr. Antonio Miró Quesada, Dr. Mariano Cornejo.

Salvador — Dr. Francisco A. Reyes.

Costa Rica — Dr. Ascención Esquivel.

United States of Mexico — Dr. Francisco Leon de La Barra, Ricardo Molina Hubbe, Ricardo Garcia Granados.

Guatemala — Dr. Antonio Batres Jáuregui.

Uruguay — Luis Melian Lafinur, Dr. Antonio Maria Rodriguez, Dr. Gonzalo Ramirez.

Argentina — Dr. J. V. González, Dr. José A. Terry, Dr. Eduardo L. Bidou.

Nicaragua — Luis F. Coréa.

United States or Brazil — Dr. Joaquim Aurelio Nabuco de Araujo, Dr. Joaquim Francisco do Assis Brazil, Dr. Gastão da

Cunhá, Dr. Alfredo de Moraes Gomes Ferreira, Dr. João Pandiá Calogeras, Dr. Amaro Cavalcanti, Dr. Joaquim Xavier da Silveira, Dr. José P. da Graça Aranha, Antonio da Fontoura Xavier.  
 United States of America — William F. Buchanan, Dr. L. S. Rowe, A. J. Montague, Tulio Larrinaga, Dr. Paul S. Reinsch Var-Leer Polk.

Chili — Dr. Anselmo Hevia Riquelme, Joaquim Walker Martinez, Dr. Luis Antonio Vergara, Dr. Adolfo Guerrero.

Who after having exchanged their credentials and finding them in good and proper order, decided to create an International Commission of Jurists in the following terms:

Art. 1. — There shall be established an international Commission of Jurists, composed of one representative from each of the signatory States, appointed by their respective Governments which Commission shall meet for the purpose of preparing a draft of a Code of Private International Law and one of Public International Law, to regulate the relations between the Nations of America. Two or more Governments may appoint a single representative, but such representative shall have but one vote.

Art. 2. Notice of the appointment of the members of the Commission shall be addressed by the Governments adhering to this Convention, to the Government of the United States of Brazil, which shall take the necessary steps for the holding of the first meeting.

Notice of these appointments shall be communicated to the Government of the United States of Brazil before April 1st. 1907.

Art. 3. The first meeting of the said Commission shall be held in the City of Rio de Janeiro during the year 1907. The presence of at least twelve of the representatives of the signatory States shall be necessary for the organization of the Commission.

The said Commission shall designate the time and place for subsequent sessions, provided, however, that sufficient time be allowed from the date of the final meeting, to permit the submission to the signatory States of all draft or all important portions thereof at least one year before the date fixed for the Fourth International American Conference.

Art. 4. The said Commission after having met for the purpose of organization and for the distribution of the work to the members thereof, may divide itself into two distinct committees, one to consider the preparation of a draft of a Code of Private International Law, and the other for the preparation of a draft of a



Code of Public International Law. In the event of such division being made, the committees must proceed separately until they conclude their duties, or in the manner of the final clause of article three.

In order to expedite and measure the efficiency of this work, both committees may request the Governments to assign experts for the consideration of special topics. Both committees shall also have the power to determine the period within which such special reports shall be presented.

Art. 5. In order to determine the subjects to be included within the scope of the work of the Commission, the Third International Conference recommends to the Commission that they give special attention to the subjects and principles as to which there is agreement in existing treaties and conventions, as well as to those which are incorporated in the national laws of the American States, and furthermore recommends to the special attention of the Commission the Treaties of Montevideo of 1889 and the debates relating thereto as well as the draft conventions adopted at the Second International Conference of the American States held in Mexico in 1902, and also the discussions thereon; and all other questions which give promise of juridical progress, or which tend to eliminate the causes of misunderstanding or conflicts between said States.

Art. 6. The expense incident to the preparation of the drafts, including the remuneration for technical studies made pursuant to article four, shall be defrayed by all the signatory States in the proportion and form established for the support of the International Bureau of the American Republics, of Washington, with the exception, of the remuneration of the members of the Commission which shall be paid to the representatives by their respective Governments.

Art. 7. The Fourth International Conference of the American States shall embody in one or more treaties, the principles upon which an agreement may be arrived at, and shall endeavor to secure their adoption and ratification by the Nations of America.

Art. 8. The Governments desiring to ratify this Convention, shall so advise the Government of the United States of Brazil, in order that the said Government may notify to the other Governments through diplomatic channels, such action taking the place of an exchange of ratifications.

In faith of which, the Plenipotenciaries and Delegates sign this present Convention, which bears the Seal of the Third International American Conference.

Made in the city of Rio de Janeiro, on the twentythird day of the month of August of one thousand, nine hundred and six, in Portuguese, Spanish and English, and deposited in the Secretarial Department of the Ministry of Foreign Affairs of the Government of the United States of Brazil, in order that certified copies may be extracted from this and sent to each of the signatory countries.

For Ecuador — Emilio Azévalo, Olmedo Affaro.

For Paraguay — Manoel Gondra, Arsenio Lopez Decoud, Gualberto Cardús y Huerta.

For Bolivia — Alberto Gutiérrez, Carlos V. Romero.

For Colombia — Rafael Uribe Uribe, Guillermo Valencia.

For Honduras — Fausto Dávila.

For Panamá — José Domingo de Obaldia.

For the Republic of Cuba — Gonzalo de Quezada, Rafael Montoro, Antonio Gonzalo Lanaza.

For the Dominican Republic — Emilio C. Joubert.

For Perú — Eugenio Larrabure y Unánue, Antonio Miró Quezada, Mariano Cornejo.

For the United States of Brazil — Joaquim Aurelio Nabuco de Araujo, Joaquim Francisco de Assis Brazil, Gastão da Cunha, Alfredo de Maroes Gomes Ferreira, Jaão Pandiá Callogeras, Amara Cavalcanti, Joaquim Xavier ad Silveira, José P. da Graça Aranha, Antonio da Fontoura Xavier.

For Salvador — Francisco A. Reyes.

For Costa Rica — Ascención Esquivel.

For the United States of Mexico — Francisco Leon de La Barra, Ricardo Molina-Hubbe, Ricardo Garcia Granados.

For Guatemala — Antonio Batres Jáuregui.

For the Oriental Republic of Uruguay — Luis Melian Lafinur, Antonio Maria Rodriguez, Gonzalo Ramirez.

For the Argentine Republic — J. V. González, José A. Terry, Eduardo L. Bidau.

For Nicaragua — Luis F. Coréa.

For the States of America — William F. Buchanan, L. S. Rowe, A. T. Montague, Tulio Larrinaga, Paul S. Reinsch, Van Leer Polk.

For Chili — Anselmo Hevia Riquelme, Joaquim Walker Martinez, Luiz Antonio Vergara, Adolfo Guerrero.

INCREASE IN THE NUMBER OF DELEGATES  
ESTABLISHED BY THE CONVENTION OF THE  
23rd OF AUGUST OF 1906.

Act of the Ordinary Meeting of Executive Council of the Pan American Union in Washington, held on the 27th. of December of 1912.

In the city of Washington at half-past three ó clock in the afternoon of the 27th. day of December of 1911, there were present in the Hall of Sessions of the Executive Council of the Pan-American Union, under the Presidency of Senhor Domicio da Gama, Ambassador for Brazil, the following members of the Executive Council: Don Joaquim Bernardo Calvo, Minister of Costa Rica; Don Ignacio Calderón, Minister of Bolivia; Don P. Ezequiel Rojas, Minister of Venezuela; Don Salvador Castrillo, Minister of Nicaragua; Don Romulo S. Naon, Minister of Argentina; Don Carlos Maria de Pena, Minister of Uruguay; Don Eduardo Suárez Mujica, Minister of Chili; Mons. Solon Ménos, Minister of Haiti; Don Fausto Dávila, Minister of Honduras; Don Joaquin Mendez, Minister of Guatemala, and Don Juan Brin, Chargé d'Affaires of Panamá. There were also present Mr. John Barrett, Director-General and Don Francisco J Yánes, Sub-Director and Secretary of the Council.

The Mexican Ambassador, the Miniters of Salvador, Dome-  
nican Republic and Cuba, and the Chargé d'Affaires of Perú sent  
their excuses for being unable to be present at this assembly.

The sessions being opened, the minutes of the proceedings of  
the previous Meeting which was held on the 15th. of November  
were approved, printed copies of the same being distributed.

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Immediately afterwards, the Brazilian Ambassador, who presided, after some explanatory words, presented the following proposal, of which all the Members of the Executive Council had already received notice:

"The Government of the United States of Brazil has the honor of proposing to the Governments of the American Republics, represented on the Executive Council of the Pan-American Union, that the Meeting of the Board of Jurists, created by the Convention signed in Rio de Janeiro on the 23rd. of August 1906, by the Third International American Conference, shall take place on the 26th. of June next; and also that the said Convention be modified to the effect that each of the Government interested send two Delegates to the Board in place of one, but each country represented having one vote only.

Palace of the Pan-American Union, Washington, D. C., 27th. of December 1911."

This proposal having been submitted to discussion, the representatives of the following countries, who being duly authorized, agreed to the same:

Argentina, Bolivia, Chili, Costa Rica, Honduras, Nicaragua and Uruguay, this last — ad referendum —. The representatives of Cuba, Mexico and Perú, although absent, sent in their adhesion to the mentioned proposal; and Paraguay, by means of a communication directed to the State Department of the United States under date of the 22nd. of April 1911, also manifested its adhesion to that proposal.

The representatives of Guatemala, Haiti, Panamá and Venezuela declared that they were without instructions, but stated that they believed that their respective Governments were in accord with the proposal.

After an exchange of opinions, in which the Brazilian Ambassador, the Minister of Costa Rica, the Minister of Argentina, and the Minister of Chili took part, it was resolved, on the motion of this last Minister, that another Meeting should be held on the 15th. of January 1912, so that the Brazilian proposal might be signed as it is to be supposed that on that date, those Ministers who had not now the necessary instructions, would then have received them.



INVITATION TO THE FIRST MEETING OF THE  
INTERNATIONAL COMMISSION OF JURISTS AND  
SUBMISSION OF THE DRAFTS TO BE DISCUSSED.

From the Brazilian Government to the Embassy in Washington, and to the Legations in America.

Rio de Janeiro, Ministry of Foreign Affairs, 28th. of September 1911. 2nd. Section. N°. 6.

Mr. Ambassador.

In proper time your Embassy was authorized to propose to the American Government in the name of the Government of Brazil, that the 22nd. of April of 1912 be fixed as the initial date for the commencing of the labors of the Board of Jurists which by vote of the Third International American Conference ought to assemble in the city of Rio de Janeiro, with the object of organizing two Codes which should regulate the relations of Public and Private Law between the different countries of the Continent.

With a view to facilitate the task to be undertaken, and with the exclusive desire to establish the labors in a concrete form, and which we have not yet begun against our will, and have been obliged to postpone, the Brazilian Government has prepared upon those subjects to drafts of Codes which were dispatched according to the telegram from this Ministry of the 14th. of March last.

With this despatch your Excellency will receive 24 copies of each of them.

The fact of having confided the preparation of those drafts to jurists such as Councillor Lafayette R. Pereira, late Senator and President of the Council of Ministers in the Empire, Representative of Brazil in the Chilian Arbitral Commissions and at the First Pan-American Conference of Washington, Member of the Permanent Court of Arbitration of the Hague and author of a Treaty of International Law and of various other legal works; and such as Dr. Eptacio Pessoa, Brazilian Delegate to the Board of Jurists, late lecturer to the Faculty of Law and Equity of Pernambuco, former Federal Deputy, and late Minister of Justice, and today Minister of the Supreme Federal Court; — does not prevent the Government from seeing in them nothing but simple



bases, which, possibly, might harmonize to some extent with the political point of view and the expression of the juridic culture of the American Nations.

Systematizing principles, condensing the most recent conquests of Legal Right and, accentuating those points of study and examination, in the doctrine generally recognized, the drafts carefully appreciated, will have facilitated the practical work of the Board of Jurists, to which in that manner the Delegates may concur, bringing sure and definite instructions upon fundamental and concrete points, and avoiding the system of uncertainties and unforeseen happenings that might produce the absence of defined and succinct ideas to be discussed.

If with such object, the Drafts deserve the favorable reception of the Governments, Brazil will consider itself sufficiently recompensed for its initiated.

And already from now, indications and suggestions upon the matter may be sent to the preliminary meeting which we propose for Washington.

Will your Excellency therefore, inform the Government of the United States of America, in the meaning of this dispatch, of the intentions of the Brazilian Government in offering to the examination of the Nations interested, the Projects of which you will hand them the number of copies that may be necessary.

We hope that, without the exclusion of whatsoever other initiatives, at all times acceptable, these may serve as a basis for the labors and debates of the Board of Jurists, entrusted with the preparation of the Codes of International Public Law and International Private Law, which regulate the relations between the American Nations.

I beg Your Excellency that, taking advantage of the opportunity, you renew to that Government and to the Representatives of those Governments with whom your Excellency has to confer upon the matter, the assurance of the pleasure with which Brazil will welcome the Delegates of those countries to the Assembly, expressing to them the well-founded hope which we hold, that the spirit of co-operation and goodwill manifested in the American Conferences will produce those possible practical results which we all in America, ought to have the sincere desire of attaining.

I repeat to your Excellency the expression of my high esteem and very distinct consideration.

RIO BRANCO

To His Excellency Senhor Domicio da Gama, Ambassador Extraordinary and Plenipotentiary in Washington.

PROJECT OF REGULATIONS OF THE INTERNATIONAL  
COMMISSION OF JURISCONSULTS.

Art. 1 — The Commission will be installed on the 26th. day of June of 1912 having for its President on that occasion the Brazilian Minister of Foreign Affairs.

In a previous session, the Delegates of at least twelve of the nations represented being in attendance, a Provisory President shall be nominated, who will direct the labors up to the definite installation of the Commission.

Art. 2. — The President of the Commission shall be elected by a majority of the Delegations present at the session of installation.

The Commission shall have a Secretary-General appointed by the Brazilian Government.

The precedence of the Delegations shall be determined in the alphabetical order of the respective Nations, the turn corresponding to each one of filling the place of the President when absent, being fixed, however, by ballot.

Each Delegation shall indicate the Delegate who should undertake the functions of Vice-President.

Art. 3. — The duties of the definite President are:

1.º — To preside the sessions of the Commission and present for discussion the matters comprised in the Order of the Day.

2.º — To concede the right of speaking to the Delegates in the order in which they ask such right.

3.º — To decide all questions in the order in which these are brought up during the discussions of the Commission. If, however, any Delegation solicits it, the decision taken by the President shall be submitted to the deliberation of the Commission.

4.º — To submit to the vote, the matters subjected to the deliberation of the Commission and declare the result of the voting.

5.º — To announce to the Commission by the intermedium of the Secretary-General and at the end of each session, the Order of the Day for the following session.

6.º — To order the Secretary, as soon as the Minutes have been approved, to inform the Commission as to the matters which have been presented since the previous session.

7.º — To prescribe all measures that may be necessary for the maintaining of order and to see that the Regulations are strictly complied with.

Art. 4. — It shall be the duty of the Vice-Presidents to take the place of the President in the absence of the latter or when the latter is otherwise unable to preside.

Art. 5. — The duties of the Secretary-General are:

1.º — To have under his direction the Secretaries, assistants and other employés nominated by the Government of Brazil for the service of the Commission, and to distribute to them their respective duties.

2.º — To receive and distribute the official correspondence and reply to it, in accordance with the resolutions of the Commission or of its President.

3.º — To edit, or get Edited, the Minutes of the Meetings, according to the notes and other data supplied to him by the Secretaries and to see that such are properly printed and circulated among the Delegations.

4.º — To revise the translations made by the Secretaries and interpreters.

5.º — To distribute to the Sub-Committees, the matters upon which these latter may have to report, and to place at the disposal of the said Sub-Committees, all that may be necessary for the proper fulfilment of their duties.

6.º — To edit the Order of the Day, in accordance with the instructions of the President.

7.º — To be the intermedium between the Delegations, or the members of the same, in all business relating to the Commission, as also between these and the Brazilian authorities.

Art. 6.º — The Commission shall divide itself into two Sub-Commissions, one of which will take charge of the examination of the Draft of the Code of International Law and the other of the Draft of the International Private Law Code, and deliberate upon each one of these.



Art. 7. — The nomination of the Members of the Sub-Commissions will be made by the definitive and effective President and subject to the approval of the Delegations present by a majority of votes.

The President of the Commission shall belong to the Sub-Commission to which his companions of Delegation do not belong

Art. 8. — Each Sub-Commission shall elect its President and will organize the order of the respective labors as it considers most convenient, following however, as far as possible, the Rules and Regulations herein laid down.

All the delegates may attend the meetings of both the Sub-Commissions and take part in the debates, but those only who form part of such Sub-Commissions may vote.

Art. 9. — The First Session of the Commission shall take place on the day and place designated by the Brazilian Government. The subsequent Meetings either of the Commission or of the Sub-Committees shall be held on the days, in the places, and during the hours which may be determined.

Art. 10. — When the elaboration of the projects of the two Codes or if one of them has been concluded before the Sub-Commission, the same shall be subjected to the deliberation of the Commission in full session.

Art. 11. — The Commission shall deliberate as to whether the projects of the two Codes or one of these shall be approved of definitely at once, or whether the same ought to be submitted to a more careful examination on the part of the Governments of the Republics represented in them. In the latter case the Commission shall designate the dates and places for these additional assemblies always having in view that the date fixed for termination of its labors shall leave the time necessary for communicating to the Governments any of the Projects adopted, or of integral portions of the same of one year, at least before the date fixed for the Fifth American International Conference.

Art. 12. Whenever an absolute majority of the Delegations represented on each Sub-Commission shall decide such to be desirable, a full Session of the Commission may be summoned.

Art. 13. In order to hold a Session it is necessary that there be represented at it a majority of the Nations, which are taking part in the Commission in the person of at least one of the Delegates of such Nation.

Art. 14. On the session being opened, the minutes of the previous session shall be read by the Secretary, unless, at least, such reading be dispensed with.— Notes shall be taken of the remarks or observations which either the President or any of the other Delegates may make respecting the same and then the meeting shall proceed to its approval.

Art. 15. The projects of the Code shall be submitted to a first discussion by chapters. The amendments presented will be voted after the respective Articles, if they are simple modifications, or before, if they are in substitution or in suppression of the same.

The projects of the Code will be the object of a second and last discussion, which shall embrace all the matter as a whole.

Art. 16. — The Delegation of each Republic represented on the Commission shall have one sole vote, the votes being taken separately by the Nations. As a general rule the votes will be given «viva-voce», except in the event of any Delegate requiring that they be given in writing. In such case, each Delegate shall deposit into an urn a ballot paper with the declaration of the name of the Nation that he represents and the sense in which he has issued his vote. The Secretary will read ballot papers in a loud voice and will count the votes.

Art. 17. — The Commission shall not vote on any motion upon the subject matter for which it is established, except there be present at the time of its being brought forward at least two-thirds of the Nations forming the Commission.

Art. 18. — The motions of proposals presented to the Commission shall be considered as approved when they have obtained an absolute majority at the Meeting at which the voting took place. The Delegation which may have sent its vote by writing to the Secretary-General shall be considered as present and represented.

In absent Delegation may also give its adherence to the deliberation of the Commission, by a declaration of its Delegates made at one of the two following sessions.

Art. 19. — When, owing to absence or abstention, the majority exacted in whichever of the two preceding Articles, does not resolve the vote of the Commission, the voting will be postponed to the following session, at which, if the abstentions still continue, the voting shall be taken by a majority of the Delegations present.



Art. 20. — The Delegates may express themselves orally or by writing in their native language. At the end of the speech, the Delegate himself or one of the interpreters, or Secretaries of the Commission will make a resumé of the essential points, in the language or languages which any Delegate may solicit.

Art. 21. — No delegation may speak more than once, nor more than thirty minutes upon the same subject-matter. The author, however, of any project or proposal may speak a second time for fifteen minutes. Any Delegate can claim the right to speak for five minutes, but only for personal explanations or for the purpose of giving the reason for his vote.

Art. 22. — The discussions of the Commission will not be public. Entrance to the Sessions' Hall or Committee Rooms will only be permitted to the Delegations with their Secretaries and Assistants and the Staff nominated by the Brazilian Government to take part in the labors, it being understood, however, that the Commission may, by a majority of votes allow of the admittance of persons whom they occasionally may point out.

Art. 23. — The reports of the Sub-Committees and the resolutions to which they refer will be printed in Portuguese, Spanish, English and French, and distributed among the Delegates for their examination, at the next meeting, but these may not be submitted for discussion except at a Meeting posterior to that at which this printed matter has distributed.

Art. 24. In cases unprovided for, that which is decided upon by the Commission will be valid.

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## PRESIDENTS OF THE COMMISSION:

Temporary President: — Dr. Victor Manuel Castillo, Mexican Delegate.

Permanent President: — Dr. Epitacio Pessoa, Brazilian Delegate.

Honorary President: — Dr. Lauro Müller, Minister of State for Foreign Affairs.

## SECRETARIAL OFFICERS OF THE COMMISSION:

Secretary-General: — Dr. João Carneiro de Souza Bandeira.

Secretaries: — Dr. Eugenio de Lucena, Dr. Eurico de Barros, Dr. Francisco de Paula de Oliveira, Dr. João C. da Rocha Cabral, Dr. Herbert Moses, Dr. Helio Lobo.

Secretarial Assistants: — Ricardo Xavier da Silveira, Anacreonte Borba Gomes, Fernando de Azevelo Milanez, Paulo Godoy.

## DELEGATIONS:

United States of America — Delegates: Prof. John Bassett Moore, Dr. Frederick Van Dyne.

Secretary: Mr. Henry L. Janes.

Argentina — Delegates: Dr. Carlos Rodrigues Larreta Filho, Dr. Norberto Quirno Costa.

Secretaries: Dr. Manuel Quirno Costa, Dr. Romulo A. Romero.

Bolivia — Delegate: Dr. Victor Sanjinés.

Secretary: Dr. Carlos Gutierrez.

Chili — Delegates: Dr. Miguel Cruchaga, Dr. Alejandro Alvarez.

Secretary: Dr. Carlos Castro Ruiz.

Colombia — Delegates: Dr. José Maria Uricoechea, Dr. Roberto Ancizar.

Costa Rica — Delegate: Dr. Alejandro Alvarez.

Cuba — Delegates: Dr. Aniceto Valdivia, Dr. Marques Sterling.

Dominican Republic — Delegate: Dr. Americo Lugo.

Ecuador — Delegates: Dr. Matias Alonso Criado, Dr. Alejandro Alvarez.

Guatemala — Delegates: Dr. Antonio Batres Jáuregui, Dr. José Matos.

Mexico — Delegate: Dr. Victor Manuel Castillo.

Panamà — Delegates: General Dr. Santiago de la Guardia.  
Secretaries: Raul Espinosa, Enrique de la Guardia.

Paraguay — Delegates: Dr. Cecilio Baez, Dr. Euzebio Ayala, Nicolas Baez.

Peru' — Delegates: Dr. Hernán Velarde, Dr. Alberto Elmore.

Secretary: Dr. Luiz Alaiza Paz-Soldan.

Salvador — Delegates: Dr. Alonso Reyes Guerra, Dr. J. P. da Graça Aranha.

Uruguay — Delegates: Dr. Juan Zorrilla de San Martin, Dr. José Pedro Varela.

Secretary: José Luiz Zorrilla de San Martin.

Venezuela — Delegate: Dr. Pedro Manuel Arcaya.

Brazil — Delegates: Dr. Epitacio Pessoa, Dr. Candido Luiz Maria de Oliveira.

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# ACTS

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FIRST AND ONLY PREPARATORY MEETING,  
JUNE 26th, 1912.

At 3 p.m. there being present the following members: John Bassett Moore and Frederick van Dyne, delegates for the United States of America; Norberto Quirno Costa and Carlos Rodrigues Larreta, delegates for the Argentine Republic; Miguel Cruchaga, for Chile; Alejandro Alvarez, delegate for Chile, Ecuador and Costa Rica; José Maria Uricoechea and Roberto Ancizar, delegates for Columbia; Mathias Alonso Criado, delegate for Ecuador; Antonio Batres Jáuregui, delegate for Guatemala; Senator Victor Manoel Castillo, delegate for Mexico; Santiago de la Guardia, delegate for Panamá; Cecilio Baez, delegate for Paraguay; Hernán Velarde, delegate for Peru; Alonso Reyes Guerra, delegate for San Salvador; Juan Zorilla de San Martin and José Pedro Varela, delegates for Uruguay; Epitacio Pessoa and Candido Luiz Maria de Oliveira, delegates for Brazil, the meeting was opened.

Mr. EPITACIO PESSOA, Delegate for Brazil:—Gentlemen, In accordance with the regulations organised for the proceedings of the International Conference of Jurisconsults, we must, this day, before the solemn inaugural meeting, elect, by vote or acclamation, a President "pro tempore" who shall take the chair until the final installation of the Conference is effected.

I believe that I voice the sentiments of all delegates present by indicating as temporary president Mr. Victor Manoel Castillo, here present amongst us, to whom, I am sure, the Conference will gladly confide the task of directing its proceedings.

Upon a general sign of approval Mr. Victor Manoel Castillo, delegate for Mexico, takes the chair.

THE PRESIDENT:—Gentlemen: It behooves me to express my deep gratitude for the honor bestowed on my country by my appointment as Temporary Chairman of the Conference.

In the first place we must proceed to the approval of the regulations. All the delegates present are cognizant of the draft

of these that has been presented by the Government of Brazil. The Secretary may begin the reading thereof.

VARIOUS DELEGATES:—This is not necessary.

THE PRESIDENT:—Let the delegates make known any remarks in regard to the regulations.

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—I ask the floor. There are several delegates who do not know the draft for the regulations which we have just received, as we have not yet had occasion to study the same. I would therefore suggest that the matter be left for the first formal meeting, as the one now held is but a preparatory one, an advance meeting, as it were. At the first formal meeting this question of regulations may therefore be discussed.

Mr. ALONSO REYES GUERRA, Delegate for S. Salvador:—I agree with the delegate for Chile. It is not possible to approve these regulations of which we have no knowledge and the convenience of which we do not know. This might, therefore, well be left for the next meeting.

Mr. EPITACIO PESSOA, Delegate for Brazil:—Mr. President. I agree, as a matter of principle with the proposal that has just been made by Mr. Alejandro Alvarez, Delegate for Chile; but a practical difficulty prevents me from accepting it, and for this reason I would suggest a slight modification that, I believe, can be easily accepted by all delegates.

To-day, in accordance with the Convention of August 23rd, 1906, this International Conference of Jurisconsults must be finally inaugurated. By the terms of the proposed internal regulations, the solemn inaugural session must be presided over by the Minister of Foreign Affairs of Brazil.

Now, if the approval of these regulations be postponed, I ask: in virtue of what law can we to-night instal this Conference if no regulations exist to guide us?

It seems to me that it would be more practical to approve at least the first article of the regulations that provide for the presiding of the inaugural meeting by the Minister of Foreign Affairs, as a means of giving a practical, realizable, form to the constitution of the Conference even if the study, examination and approval of the other component parts of these regulations be left for a later date.

I believe that I hereby reconcile the proposal made by the eminent delegate for Chile with the one that I had preliminarily made, by submitting the first article of the regulations to the approval of the Committee, there being no inconvenience in its being approved at once, all others remaining, I repeat, for ulterior meetings.

THE PRESIDENT:—By the motion of the delegate for Brazil, the first article proposed is approved, only in the sense that the solemn inaugural meeting shall be effected this day, which approval, on the other hand, we have already accepted in the treaty. We must, moreover, proceed to the designation of the assembly once it is inaugurated, and it is in this sense that the first article should be approved.

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—It seems to me that there can be no inconvenience in placing at once under discussion these regulations in general, that we approve same in general and in particular the first article.

Mr. JOSE PEDRO VARELA, Delegate for Uruguay:—This is to say, a general approval and thereafter the first article to be approved in particular.

Mr. ALONSO REYES GUERRA, Delegate for S. Salvador:—I ask the floor. I very much regret to be unable to follow this indication, as, I repeat, I do not know the regulations and several delegates are in the same situation.

THE PRESIDENT:—There is one undeniable fact: we must inaugurate to-night the Conference. The present is the only preparatory meeting we shall hold; we must at the very least designate the person that shall preside the meetings. Thus it is that, parting from the regulations, if we resolve to approve same in general or in particular, we shall thereby consider as suspended the election of a president of the assembly, in order that it may already with this personal give possession in the inaugural meeting that we celebrate.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—Perfectly, Mr. President, but we must previously approve in general the draft of the regulations and thereafter the first article.

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—I make free to propose Mr. Pessoa, who is delegate for Brazil, as final President.

Mr. EPITACIO PESSOA, Delegate for Brazil:—Gentlemen: I am very grateful for the distinction conferred upon me by the indication of my name as President of the Conference; but I beg leave to call the attention of the delegates to the unpracticability of this idea at the present moment, and do so in virtue of the same reasons presented only shortly ago to justify the motion made by me in the sense of the approval of the regulations.

We have as yet no regulations approved. The indication of the delegate for Chile, as modified by the one presented by me, was not presented to the vote of the Conference, in such a manner that the regulations exist so far only as a simple proposal, have so



far no body, no life, are not an internal law. This seems to me an anticipation.

I believe that the process to be adopted, in accordance with the idea of the draft of regulations, is to hold a preparatory meeting for the approval of the regulations, if it be possible. If not possible, we must approve at least the part referring to the constitution of the Conference in order that the solemn inaugural session be held and that the Minister of Foreign Affairs may preside it, in virtue of the dispositions of a law accepted by the very Conference, it remaining for after the solemn session or for another subsequent one, if the members should deem it proper, to elect a final Chairman and take other decisions decurrent from these regulations, but after approval of these regulations by the Conference.

At this moment, before the approval of the regulations, there is nothing to justify this election or this acclamation. All that we do before the approval of the regulations shall lack legal support. If all of the regulations cannot be approved, let us at least approve the article referring to the inauguration of the Conference, leaving the study of the other articles for another session. I make free to state that this must be the process to be followed: to approve the first article, leaving the others for the time when the Conference shall be finally constituted.

Mr. JOHN BASSETT MOORE, Delegate of the United States:—Mr. President: It seems to me that we can solve all difficulties if we simply adopt these regulations provisionally, with the understanding that if anyone desires to present later any amendments thereto this will not be considered out of order. I move that these regulations be adopted provisionally.

Mr. CARLOS RODRIGUES LARRETA, Delegate for the Argentine Republic:—I ask the floor to request that the motion just worded by the delegate of the United States be submitted to vote.

THE PRESIDENT:—The motion as presented by the delegate of the United States, in the sense that the regulations of the Conference be approved provisionally is under discussion.

No one asking to speak on the matter a nominal vote is taken with the following result: Yeas the delegates from the United States, Argentina, Chile, Bolivia, Columbia, Costa Rica, Equador, Guatemala, Mexico, Panamá Paraguay, Peru, S. Salvador, Uruguay and Brazil.

THE PRESIDENT:—The motion has been approved by unanimity, with the exception of the delegation from Venezuela that did not take part in the voting.

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—I ask the floor. As the difficulty which opposed itself to the naming of the final President has now been removed, I beg to renew my former indication, in the sense that the delegate for Brazil, Mr. Epitacio Pessoa, be named.

THE PRESIDENT:—The matter is under discussion .

Mr. CARLOS RODRIGUES LARRETA, Delegate for the Argentine Republic:—I ask the floor. I beg to call attention to the fact that the second article of the regulations states that the Chairman shall be elected in the meeting of installation, hence I believe that the present is not an opportune moment for this election.

THE PRESIDENT:—We have approved the regulations provisionally and I agree with the Argentine delegate that the election should take place at the first meeting.

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—Very well, Sir. I do not insist on my indication.

THE PRESIDENT:—The delegates are requested to call jointly on the President of the Republic immediately after this meeting, as well as to attend to the solemn inaugural meeting to be held to-night at 9 p.m.

These upon meeting is adjourned at 4,22 p.m.

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## SOLEMN INAUGURAL MEETING, JUNE 26th, 1912.

On June 26th, 1912, at the Monroe Palace, at 9-30 p.m., there being present the following delegates:—Mr. John Bassett Moore, and Mr. Frederick van Dyne, for North America; Mr. Norberto Quirno Costa and Mr. Carlos Rodrigues Larreta Filho, for the Argentine Republic; Mr. Miguel Cruchaga and Mr. Alejandro Alvarez, for Chile; Mr. José Maria Uricoechea and Mr. Roberto Ancizar, for Colombia; Mr. Alejandro Alvarez, for Costa Rica; Mr. Alejandro Alvarez and Mr. Matias Alonso Criado, for Ecuador; Mr. Antonio Batres Jauregui, for Guatemala; Mr. Victor Manoel Castillo, for Mexico; Mr. Santiago de la Guardia, for Panamá; Mr. Cecilio Baez, for Paraguay; Mr. Hernan Velarde, for Peru; Mr. Alonso Reyes Guerra, for Salvador; Mr. Juan Zorrilla de San Martin and Mr. José Pedro Varela, for Uruguay; Mr. Epitacio Pessoa and Mr. Candido Luiz Maria de Oliveira, for Brazil; and also Their Excellencies the Ministers of Foreign Affairs, of the Interior and Justice, of Industry and Communications, the Members of the Supreme Federal Court, and many eminent persons, the meeting was opened.

Mr. VICTOR MANOEL CASTILLO, Delegate for Mexico, President "pro tempore":—In accordance with the first article of the regulations, I invite the Honorable Minister of Foreign Affairs of Brazil to occupy the presidential chair.

The Minister of Foreign Affairs takes the chair, placing at his right Mr. Victor Manoel Castillo, Delegate for Mexico.

HIS EXCELLENCY, THE MINISTER OF FOREIGN AFFAIRS OF BRAZIL:—Gentlemen: I have the honour of greeting you in the name of the people and Government of Brazil, and to express our gratitude toward your countries and Governments for their representation in this assembly.

It has always been a motive of rejoicing in the Brazilian land to receive the visit of illustrious foreigners, and the nature of the mission incumbent upon you enhances the strength of this tradi-



tional sentiment, containing, as it does, the legitimate hope of a work at once continental and human.

The knowledge which you possess has already made you grasp the difficulties inherent upon the complexity of your mission, whether it may be deemed wise to insist upon the happy initiative of the Montevideo Congress or you find it best to follow the criterion which was supposed to be more practical in that of the Hagne.

By adding the codification of Public International Law to that of Private Law, the object of these Congresses, the Pan-American Congress of Rio de Janeiro has broadened the sphere of your studies, committing to you the enormous labor of unifying at last, the life of the nations of America, by the communion in uniform juridical principles, freely adopted for the relations between the continental nations.

The immensity of the work seems to evidence the need of, as an indispensable factor of success, counting with the time needed, not only for your continued study, but also to the gradual adaptation of the rules that your great culture shall have recommended to the sentiments and interests of each country represented here.

In uttering these considerations, I have by no means in view to weaken the praiseworthy decision that has gathered you; on the contrary, I desire only to show how great is the mission happily confided to the wisdom and experience of such a cultured assembly.

You are thereby called upon to complete the work of our patriarchs, creating between the commonwealths which they founded and which time has made partake of the same political ideals, the juridical and social uniformity of nations, that only through pitiable errors of those governing their destinies can ever jeopardize the existence of a continent of peace.

It is of this continent that you can now be the serene parliament, to create its common law, in answer to a common sentiment, and, by the moral authority of acts inspired by the general welfare, hasten, through your juridical knowledge and political experience, the code most adequate to universal applause, in the internal juridical order as well as in that of external relations, subject henceforward to the influence of the International Conference now reunited.

Seeing how it is composed of recognized American talent, men of government, diplomats and juriconsults, educated under the influence of the western medium to which we all belong, we may all congratulate ourselves upon the happy mission allotted to it: to gather more closely our countries under the fold of universal principles of Law and Justice.



The very circumstance of your being united here, through a delegation of your countries, with the end you have in view, is a just motive of rejoicing for those that believe in the invincible and constant force that tends to approximate nations and in the consequent action, daily greater and more beneficial, of popular sentiments over the sometimes variable will of governments.

Identified by our common political organization, living with the same ideals and occupied by the same fundamental problems, only varying in the different stages of their solutions, the bringing about gradually of a homogeneous juridical and social constitution is an end worthy of sincere applause, all the more so considering that without fear one can affirm that this work shall approximate us even more with the continent that was the cradle of our nationalities and continues to be the greatest fountain of human culture.

The Brazilian Government having received the mission of organizing this assembly has fulfilled its task by taking what steps it could to facilitate the same.

With this end in view and as simple understructures for your work, two drafts of projects by noteworthy Brazilian jurists, who have therein endeavoured to indicate points for study and examination, without any other object but to avoid uncertainties during this first gathering, have been submitted to your Governments.

You have us here animated by the greatest interest, eager to assist you in whatever be needed in your work, collaborating with you through the national delegates, from whom you shall hear, with the frankness we owe each other, the Brazilian opinion in each case.

This last makes a claim to no other value but that of being the clear and sincere feeling of a people satisfied within the definitive limits of its boundaries, and that, loving the freedom of others as much as its own, has for the sovereignty and integrity of its sister nations the same respectful regard as it has always deserved for itself.

Wishing to all of you a pleasant stay among us, I sincerely hope that the spirit of co-operation and solidarity that has presided at all Pan-American gatherings may produce the practical results we all desire to obtain.

In the name of the President of Brazil, I have the honour to declare that the labors of the International Conference of Jurists have been inaugurated. (Prolonged applause.)

Mr. JOHN BASSETT MOORE, Delegate of the United States of America:—"Mr. President: We have listened with great satisfaction to the words of welcome and of encouragement which you

have spoken upon the present occasion. The inauguration of the sessions of the International Commission of Jurists, in conformity with the design of the Convention of Rio de Janeiro of 1906, which contemplated the eventual Codification of International Law, both Public and Private, is an event of no mean interest or significance. The great Roman orator and advocate, speaking in terms of prophecy, ventured to indulge the vision of a day, when, as he declared: "*Non erit elia lex Romæ, alia Athenis, alia nunc, alia posthac, sed et apud omnes gentes, et omni tempori, una eademque lex obtenebit.*"

Since the day on which these eloquent words were uttered human society has undergone great mutations. Empires have risen and fallen, and civilizations have come and gone; but, even in the midst of the chaos that has sometimes supervened, the voice of law has never been altogether silent; nor is it to be forgotten that the greatest power of ancient times, although it perished as a political entity, bequeathed to humanity the immortal legacy of that system of law which not only forms the basis of the jurisprudence of a great part of the world to-day, but which has also contributed to international law in large measure its theoretical foundation.

In course of time there came the discoveries by which a new world was added to the old. Colonies were planted, and with the growth of these colonies in population, in commerce and in power there sprang up the spirit of national independence, which, manifesting itself first in the country of whose delegation I have the honor to be a member, afterwards permeated the regions to the South, where it eventually gained a complete triumph. With the establishment of the independent nations of America, there came into existence new conditions. New problems arose in law and in government, for the consideration of jurists and statesmen; and in the solution of these problems it was necessary, if not always to apply new principles, yet to adjust old principles to new situations.

It is in this evolution of national and international life in the American continents that we find the reason and justification of the conferences of American nations which have already produced such beneficial results in the promotion of international fellowship and international harmony. Animated by no spirit of exclusiveness and entertaining no designs antagonistic to the interests of the rest of the world, these conferences have dealt with questions both of general and of local interest, in the hope of contributing by means of general as well as of special regulations to the general welfare. So it is with the present Congress. Bearing in mind the important results already accomplished by The Hague Conferences,

as well as by other conferences, European and American, we may regard ourselves as engaged in a work not in any sense exclusive but on the contrary essentially cooperative. Without claiming for the Americas an undue share in the development and progress of International Law, it may justly be affirmed that to American initiative and American advocacy may be ascribed the formulation and acceptance of important rules by which the intercourse of nations is now governed. As an example of this, it will for the present suffice to mention the modern system of neutrality.

It is in this spirit of broad humanity and general helpfulness that we are now assembled, in the hope that the nations of America, while paying due attention to their own special problems, may prepare to enlarge their activities and to increase their influence in the development of international law and its application to subsisting conditions. This is, as we have been appropriately reminded, a task of the first magnitude, the seriousness and complexity of which are recognised in the commendable labors of the eminent and learned Brazilian jurists to whom our cordial acknowledgments are due for the comprehensive draft codes of Public and Private International Law which are now in our hands.

The duty of the present congress is comparatively simple, and as it does not embrace the discussion of principles or the conclusion of conventions on controverted topics, may no doubt be expeditiously performed. Our meeting upon the present occasion marks only the beginning of the great work that lies before us, a work that will involve in the future the prolonged and profound study of general principles, of conventional agreements, and of domestic legislation and judicial and administrative decisions, to the end that, by becoming acquainted with our points of disagreement as well as of agreement, we may be sure of our ground and go forward with a precise knowledge of the actual legal situation in each country concerned. Realizing, thus, the full import of what we have undertaken, let us devoutly hope that this day may always be remembered as that of the inauguration of a movement that will contribute to the happiness and prosperity not only of the nations of America, but also of the world at large.

In conclusion, permit me to give expression to the deep sense entertained by my associates in the Congress and by myself of the cordial greetings and gracious hospitality with which we have been received." (Applause.)

Hon. Lauro Muller, Minister of Foreign Affairs, leaves the chair, which is again occupied by Mr. Victor Manoel Castillo, President *«pro tempore.»*



THE PRESIDENT «pro tempore»:—During the afternoon meeting the Chilian delegation, through its illustrious member, Mr. Alejandro Alvarez, proposed twice that the delegate for Brazil, Mr. Epitacio Pessoa, be proclaimed definitive President of the Conference. It not having been possible to act on this motion owing to the fact that the regulations were not yet approved, the moment seems now opportune to revert to this point and to submit the motion of the Chilian delegation to discussion.

A general sign of assent follows. Mr. Epitacio Pessoa, Delegate for Brazil, is acclaimed President of the Conference and upon the invitation of the President «pro tempore», occupies the presidential chair.

Mr. EPITACIO PESSOA, Delegate for Brazil (on taking the chair):—Gentlemen, Members of the International Conference of Jurists: I must confess my deep gratitude for your gentle courtesy toward Brazil in bestowing upon me, as one of its delegates, the high office of president of this Conference, a noteworthy assembly called upon to realise one of the most handsome and courageous attempts towards international confraternity.

In the position of honor in which you place me, the consciousness of my unworthiness could never have allowed me to rise, were it not for the confidence I place in your learned and indulgent collaboration, I shall feel happy in devoting my best efforts, eager and untiring, to the service of the mission that congregates us here; endeavoring to lighten and facilitate your task in whatever may lie in my power, in such a manner that the Conference may correspond as far as possible to the high aims of the Third Pan-American Congress, in the matter of the preparation of the codes that shall in the future rule international relations on this continent.

Gentlemen, all of us here feel, understand, apprehend, the purport, the importance and the responsibilities of this fruitful undertaking. Its difficulties have been time and again pointed out. Some even consider it as beyond realization, on the ground of juridical conditions being profoundly antagonistic among the States of America, and further as inconvenient even if realizable owing to the arrest it might cause in the natural evolution of law.

Without closing our eyes to these difficulties, we must not, however, exaggerate them.

The advantages resulting from a codification of International Law, as a means of defining and throwing light upon the rules

guiding the relations between nations, thereby diminishing, if not wholly suppressing, the occasions and reasons for conflicts and misunderstanding, have become evident to all enlightened minds as a necessity not to be further delayed at the stage of culture and civilisation which Humanity has attained.

It was only last year that, in answer to a consultation by a learned American association, the most eminent authors of the world recommended the codification of International Law as one of the surest means to obtain and secure universal peace.

But the idea of the codification is not only expressed by isolated and individual efforts such as, since Bentham, have come to light in the juridical literature of civilised nations, nor yet in the collective efforts of institutes and associations, nobly engaged in the work of universal peace-making. No; the idea of the codification constitutes to-day an unceasing preoccupation of the governments themselves, an aspiration that has commenced its practical realization in the contemporary international life, in spite of the fear, very much exaggerated, as it was in regard to civil relations, that it might be a fetter to the evolution of Law.

But, is the task realizable? Is the right on the side of those that answer in the negative?

Gentlemen, if, in the actual stage of the political and social evolution of nations, a general and complete codification, the building up of a common law susceptible of adjustment, of adaptation to all the points of contact of international coexistence, similar to the laws destined to rule civil relations in the internal life of the States, with tribunals in charge of its application, with elements of power or a coercitive apparel sufficient to enforce the execution of the sentences of such tribunals, is perhaps not possible; I do not see why, in a continent like our own, formed, on one side, in its majority, almost in its entirety, by nations of the same race, of the same religion, and we may say, of the same language, united by the closest historical affinities and traditions and customs, bound by the most intimate solidarity, by the most perfect communion of ideas and sentiments, and, on the other side, by a nation that, if separated technically and historically from such uniformity, is animated none the less by the most accentuated spirit of tolerance and approximation, of concord and confraternity; I do not see why, in a continent like ours, where the antagonism of interests of all orders, technical, moral, religious, economical or political ever assumed the degree of intensity and vehemence observed elsewhere, nor ever created irreducible incompatibilities or untransacting rivalities; in a continent like ours,



where innumerable and uniform rules have been accepted already in different treaties and conventions, and numerous others can be so fixed, because they exist in the traditions and the daily practice of governments and diplomacy and, therefore, do not represent an arbitrary creation, but the result of common needs and interests, sanctioned by experience and ripened by time; I do not see, I repeat, why in a continent like America, it is not possible, better than anywhere else, to do a useful, profitable and lasting work in the direction of the codification, if not total, at least far advanced, of International Law.

Nor were the views of the Third Pan-American Congress different from those just expressed, and to prove this statement it will be sufficient to recall here the brilliant justification by which the Fourth Committee of said Congress reported on the fifth article of its program and the very text of the project which it submitted to the approval of this conspicuous assembly, which converted itself into the convention of August 23rd, 1906.

From America's bosom, gentlemen, has arisen the initiative for the realisation of some of the fairest ideals of International Jurisprudence.

Arbitration as the obligatory solution of international conflicts, the noblest and highest aspiration of human civilization, arose for the first time, as a legal rule, from the bosom of an American assembly—the famous Panama Congress.

The inviolability of private property in naval war, another fecund revindication about which the juridical conscience of nations has been agitated for so many years, was also for the first time proposed as a legal rule by an American State, and, like arbitration, appears in numerous treaties and conventions of the continent.

It is also to America that belongs the precedence in taking from the speculations of the publicists into the preoccupations of governments the grand work of the systematization of the regulating principles of international relations. To the precursory genius of Bolivar, in the Congress to which I have just referred, we owe the honor and glory of this initiative. The Congresses of Lima and Montevideo, the Pan-American Conferences and other manifestations of the governments of the American States mark the continuity of this noble effort.

I entertain the greatest hopes that the International Conference of Jurists shall inspire itself from these fair and brilliant traditions to carry forward its great work.

If we can crown our efforts by the preparation of two integral codes of International Law, we shall, gentlemen, have rendered

to civilization and humanity the most signal service of the present time; but if our strength does not reach so far, it will suffice that from the Conference should arise the agreement of American Powers on some points of common interest, not yet subject to uniform rules, to justify its existence and the happy initiative of those that have summoned it.

And this, Gentlemen, solely because all that the Conference shall realize with this thought in mind, all that it shall accomplish in this direction, shall represent a conquest, shall constitute a progress, shall mark a step forward in this accented path that for more than a century has been trodden by publicists and philosophers, associations and statesmen, congresses and governments, all vying with each other in the conquest of the supreme ideal of peace, a conquest that up to lately was a dream of Utopy smiling to the philanthropic phantasy of a few, but that tomorrow shall, perhaps, be a living and radiant reality, to vivify, to strengthen, to illuminate all the manifestations of international life; a conquest that yesterday was but a vague and imprecise aspiration, a flickering and timid light agitated by the breath of all manner of selfishness of all species of passions, but the frail shrub bending in every direction and at every moment under the tempest of ambitions of every kind and that notwithstanding shall be to-morrow a gigantic tree, high and dominating, erect and unmovable, to shelter under the majestic spread of its ample foliage the aspirations toward liberty and justice of all nations. (Applause.)

Mr. CARLOS RODRIGUEZ LARRETA, Delegate for the Argentine Republic:—In the name of the Argentine delegation I wish to move that the assembly of Jurisconsults rise to the memory of the Baron of Rio Branco.

It is a duty that we must accomplish at our first meeting.

To him naturally corresponded the preparatory work for this gathering.

And this, besides, will be a sign of gratitude toward the noble nation whose hospitality we enjoy and that looked upon Rio Branco as its most beloved son, for it was he that affirmed the greatness of this people by marking on all sides of the horizon the definitive boundaries of its country.

And lastly, it is an obligation that we owe to ourselves, for if Rio Branco was a great Brazilian, he was as well a great American. He was a sincere collaborator of continental peace, and, on my part, I can witness that I always saw him disposed to maintain the indestructible ties of friendship that bind Brazil to the Argentine Republic.

I ask the President to submit my motion to vote.

THE PRESIDENT:—The motion of the Delegate of the Argentine Republic is under discussion.

Mr. HERNAN VEDARDE, Delegate for Peru:—I believe, Mr. President, that there can be no room for discussion of a motion of this kind and that the proposal of the Argentine Delegate must be approved by acclamation.

A general sign of assent follows.

THE PRESIDENT:—In view of the general assent of the delegates, I consider the motion of the Delegate for the Argentine Republic, Mr. Carlos Rodriguez Larreta Filho, as approved, and I invite all present to rise as a homage to the memory of the Baron of Rio Branco.

Mr. HERNAN VELARDE, Delegate for Peru:—Mr. President, I propose a homage of respect and gratitude to the memory of the illustrious Minister of Brazil that in the Second Pan-American Congress in Mexico suggested the idea of the meeting of this Conference, to the memory of Mr. José Hygino Duarte Pereira.

THE PRESIDENT:—Let the delegates who agree to the motion of the Delegate for Peru, Mr. Hernán Velarde, remain seated.

Mr. JOSE MARIA URICOECHEA, Delegate for Columbia:—As a homage to the eminent citizen that took the place of the illustrious Brazilian to whom we have just rendered an expressive manifestation of remembrance, the Columbian delegation moves that the Minister of Foreign Affairs of Brazil, Hon. Lauro Severiano Müller, be named by the International Conference of Jurisconsults its Honorary President.

THE PRESIDENT:—Let the gentlemen who approve the motion of the Delegate for Columbia remain seated. (Pause.)

It is unanimously approved.

If no other delegate wishes to take the floor, I shall declare the solemn inaugural meeting at an end.

It is closed.

Let Friday, 28th inst., be the date for the next ordinary meeting of the Conference, the order of the day being the final approval of the regulations and the distribution of the work of the Conference.

The meeting ended at 11-25 p.m.



## FIRST ORDINARY MEETING

JUNE 28th. 1912

At 3 p.m. there being present the following Delegates:—John Bassett Moore and Frederick van Dyne, for the United States of America; Norberto Quirno Costa and Carlos Rodriguez Larreta, for Argentine; Miguel Cruchaga and Alejandro Alvarez, for Chile; Alejandro Alvarez, for Costa Rica; José Maria Urichoechea and Roberto Ancizar, for Columbia; Alejandro Alvarez and Matias Alonso Criado, for Equador; Antonio Batres Jauregui and José Matos, for Guatemala; Senator Victor Manuel Castillo, for Mexico; Santiago de la Guardia, for Panamá; Cecilio Baez, for Paraguay; Hernán Velarde, for Peru; Alonso Reyes Guerra, for Salvador; Juan Zorrilla de San Martin and José Pedro Varela, for Uruguay; Epitacio Pessoa and Candido Luiz Maria de Oliveira, for Brazil, the Meeting is opened.

The minutes of the preparatory and solemn meetings are read and approved with the protest of Mr. José de Matos, Delegate for Guatemala, against the omission of his name in the list of the Delegates present at the preceding meeting.

THE PRESIDENT:—It was intended to begin our proceedings to-day by the reading and discussion of the regulations, that have been, as all the delegates know, approved only provisionally. As, however, there is on the table a proposal signed by the Delegates of the Chilian and Argentine Republics, I shall ask that this be read and submit it to the judgment of the Conference, in order that our assembly shall decide whether to approve it immediately or to proceed to the discussion of the regulations as it shall be found most expedient.

The General Secretary proceeds to the reading of the following proposal:

The codification of international law has always been considered one of the most effective means to ensure peace and to facilitate friendly relations between nations.

But if the benefits that this great work may confer upon mankind are recognised, many inconveniences are noted that

render its complete realization difficult, it being granted, notwithstanding, that it is expedient to codify such matters as, owing to the progress of ideas and the increasing ties between all countries, are susceptible of being brought under uniform regulations.

This movement, begun toward the middle of the XIX century, has acquired great amplex in late years, during which many matters have been brought under regulations, among others those destined to render the laws and usages of war more humane.

The nations of America, since the beginning of their emancipation, have thought that the best means of cementing on lasting foundations the solidarity which nature and history had created between them, was to codify the rules of international law which had to preside over their reciprocal relations; and this idea, which for a long time did not go beyond the limits of a generous aspiration, was considered in the International Congress at Montevideo and in the Second and Third Pan-American Congresses as of opportune realization.

The actual Conference of Jurisconsults has met to carry out the agreement subscribed to in the last of these Congresses.

## I.

In view of the complexity of the mission confided to the present assembly, the Delegations for Chile and the Argentine Republic deem it proper to expound, at the inaugural meeting of this assembly, the ideas which they entertain in regard to the manner most adequate, in their opinion, of beginning their labors.

Without it being necessary to recall here the objections that have been raised against a complete codification of international law, we shall limit ourselves to say that it presents greater inconveniences than the Codification of Private Law.

Countries that are leaders in civilization, such as England and the United States, having attempted the partial codification of their private law, have encountered difficulties to the realization of its complete codification; and other countries, that for long years have begun this work, have not yet been able to bring it to completion. It must be noted that in both cases, the codification is brought about by authoritative means, and that there exists an organ of public power specially in charge of dictating laws to the nation.

Thus it is that before undertaking a work of the magnitude of the present one, we think it indispensable that all delegations proceed to an interchange of ideas on the fundamental points,



that, in our opinion, shall have to bear, above all, on the conception of the codification, on the determination of what matters shall be submitted thereto and on the method of procedure.

## II.

The conception of the codification, which is the primary point in regard to which a previous agreement must be reached, requires the most attentive study.

Shall it be a systematic body such as the national codes that rule in each country; or shall it be a group of conventions maintaining between them unity?

Shall the codification be a complete whole from the first moment or shall it be a progressive and gradual work?

In what manner can this code be abrogated or modified, or can its deficiencies or omissions be corrected?

And, in consequence, shall new rules be continually created to complete or modify the code or the agreements, maintaining these constantly in harmony with the progressive life of the nations?

These interrogations, by their simple enunciation, show the complexity of this question and the need of defining the conception thereof to be adopted.

## III.

The determination of the matters to be submitted to codification is another point to be approached by the assembly of Jurisconsults.

In this light of its labors, it may consider the proposal formulated by the Chilean Delegation at the Fourth Pan-American Congress, so conducted that in the codification due importance be given to the matters that specially, or more directly, are of interest to American countries.

It is to be desired that each country should indicate the matters that, according to its judgment, it deems most opportune to regulate. Special attention should be given by the Convention to those that have been expounded with such painstaking care by the eminent Brazilian Jurisconsults Pessoa and Lafayette Rodrigues Pereira.

## IV.

The method of working must be conducted in such a manner as to produce a matured result, that shall be the product of the collective efforts of all the States.

Only in this manner can the codification acquire the authority and prestige required to obtain the respect and observance of all.

This method shall permit that on every subject the internal legislation of each State be sufficiently investigated, as well as the conventions celebrated, the difficulties that have intervened, the solutions given thereto, the defects that shall have been noted: in a word, as far as possible, the ideas that the countries may entertain on the best means of regulating the matters to be agreed upon.

In the first European and American Conference, the method of working obtained but slight importance. It is only in the last conferences that there has been a great reaction in this direction, and it has been discovered that a good method is indispensable in order that a numerous assembly may attain with success the end it has in view.

The Second Peace Conference voted a resolution calling the attention of the governments to the convenience of appointing a preparatory committee that, among other things, should have the mission of proposing a method of organising and procedure for future conferences.

The London Naval Conference, if it could effect a partial advanced codification of the maritime war law, did so almost exclusively owing to the good system adopted for the preparation and realization of the assembly, which made it possible to discern and to place well in evidence, in each topic, the opinions of the various delegations, and treat immediately thereafter the points on which they agreed and the solutions satisfactory to all and not contrary to the interests of anyone.

Equal weight has been given always to this subject by all scientific associations, in particular by the Institute of International Law and the American Society of International Law. The first has framed, thanks to its good method of working, a considerable number of projects that have facilitated the work of diplomatic conferences; and the second, in its late annual meetings, has studied the points that they have deemed most fundamental before proceeding to the codification itself.

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As a consequence of the preceding considerations, the Delegations of Argentine and of Chile, have the honor of proposing to the assembly of Jurisconsults that, before effecting any work relating to the codification, a committee of five members be appointed. This committee shall receive the opinions of the

different delegations on the preliminary points to which this memorial makes reference and on any others that the delegations may indicate; shall study the same, and investigate up to what point and in what sense there exists similarity of views.

The report of the Committee shall be submitted to the consideration of the present Conference of Jurisconsults.

Rio de Janeiro, 28th June, 1912.

(Signed) N. Quirno Costa, Delegate for the Argentine Republic; Miguel Cruchaga, Delegate for Chile; Alejandro Alvarez, Delegate for Chile; C. Rodriguez Larreta, Delegate for the Argentine Republic.

Mr. JOHN BASSETT MOORE, Delegate for the United States:—I desire to second the motion for the appointment of the Committee as proposed in the paper which has just been read.

THE PRESIDENT:—The North American Delegate has just declared that the American Delegation seconds the proposal made by the Chilian and Argentine Delegations.

The proposal is under discussion.

If none of the delegates wish to speak to present some modifications, I shall declare the discussion closed. (Pause.)

It is closed.

Let the delegates that approve the proposal remain seated.

It is approved.

To guide the proceedings of the Conference, since the proposal of the Argentine and Chilian Delegations has been approved, I would like to ascertain if the delegations that have made the proposal understand that the discussion of the regulations should be considered waived by the approval, or if, independently of this approval, we should, during the present session study the regulations.

The Chair wishes to know if it is in the mind of the framers of the proposal that the Committee to be appointed should report only in regard to the proposal or in regard to the regulations as well.

Mr. NORBERTO QUIRNO COSTA, Delegate of the Argentine:—Mr. President, what the delegations arrived at was that consideration of the regulations should be postponed, because, precisely in virtue of this report, the existence of some of the clauses of the regulations will depend; let the provisory approval therefore, continue until the commission presents its findings.



THE PRESIDENT:—In accordance with the ideas of the authors of the proposal, as manifested by Mr. Quirno Costa, I shall appoint the Committee.

I name to constitute the Special Committee to which the proposal approved relates the following gentlemen:

Mr. John Bassett Moore, Delegate for North America.

Mr. N. Quirno Costa, Delegate for the Argentine Republic.

Mr. Alejandro Alvarez, Delegate for Chile.

Mr. Hernan Velarde, Delegate for Peru.

Mr. Candido de Oliveira, Delegate for Brazil.

Mr. CECILIO BAEZ, Delegate for Paraguay:—Once the Committee has been appointed, Mr. Chairman, I think it would be convenient to set a date for the presentation of its report.

Mr. CARLOS RODRIGUEZ LARRETA, Delegate for the Argentine Republic:—It seems to me that it might be recommended to the Committee appointed to effect its labors with the greatest possible despatch.

I ask that the indication formulated by the delegate for Paraguay be modified in this sense.

Mr. CECILIO BAEZ, Delegate for Paraguay:—I agree to the modification made to my proposal by the honorable representative of the Argentine Republic.

THE PRESIDENT:—Under these circumstances, there only remains for me to request the Committee to present the result of its labors at the earliest possible date in order that the Conference of Jurisconsults may, in turn, undertake the task that has been allotted to it.

There being no other matter under discussion, I shall declare the meeting at an end. Before doing so, however, it is convenient that the Conference should know the date for its next meeting—if we should at once set a date for an ordinary meeting, or if we should wait until the Committee appointed advise us that its work has been completed, in order to call a general meeting of the Conference.

Mr. JOSE MARIA URICOECHEA, Delegate for Columbia:—I shall make free to express my opinion in the sense that our next meeting coincide with the presentation of the report of the Committee just appointed; in other words, that no meeting take place until the presentation of the report.

THE PRESIDENT:—Gentlemen, you have heard the proposal that has just been made by the Delegate for Columbia, Mr. José Maria Uricoechea.



If all the delegates agree therewith, the Chair shall await the presentation of the report before calling another general meeting.

A general sign of assent follows.

THE PRESIDENT:—The session is closed.

The meeting is closed at 3-25 p.m.

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## SECOND ORDINARY MEETING

JULY 8th. 1912

At 2-30 p.m., the following members being present, to wit: Epitacio Pessoa, Delegate for Brazil; John Bassett Moore and Frederick van Dyne, Delegates for the United States of America; Norberto Quirno Costa and Carlos Rodriguez Larreta Filho, Delegates for the Argentine Republic; Miguel Cruchaga and Alejandro Alvarez, Delegates for Chile; Roberto Ancizar, Delegate for Columbia; Alejandro Alvarez, Delegate for Costa Rica; Aniseto Valdivia, Delegate for Cuba; Alejandro Alvarez and Matias Alonso Criado, Delegates for Ecuador; Antonio Batres Jauregui and José Matos, Delegates for Guatemala; Victor Manoel Castillo, Delegate for Mexico; Santiago de la Guardia, Delegate for Panamá; Cecilio Baez, Delegate for Paraguay; Alberto Elmore and Hernán Velarde, Delegates for Peru; Alonso Reyes Guerra, Delegate for Salvador; Juan Zorrilla de San Martin, Delegate for Uruguay; Epitacio Pessoa and Candido Luiz Maria de Oliveira, Delegates for Brazil, the meeting is declared open and the General Secretary reads the minutes of the preceding meeting.

Mr. ALONSO REYES GUERRA, Delegate for Salvador:—  
I will now, Mr. President, proceed to read a special vote, convened in the following terms:—

«The delegation for the Salvadorian Republic to this assembly of American Jurisconsults, believes it opportune to make at this moment a written manifestation, in the shape of a particular vote on the important and transcendental question of the codification of Public and Private International Law in America, the object of the present assembly of Jurisconsults.

The Salvadorian Delegation highly appreciates and enthusiastically applauds the generous initiative of Brazil in furthering the most positively civilizing and humane of works, the most expressive of the noble aspiration toward

peace that inspires actually throughout the world philosophers and statesmen of the most brilliant intellect: that of moral conscience sustained by the idea of justice and governed by the sceptre of reason. The laudable aspirations of the enlightened Government of Brazil have been boundless, furthering the means of attaining satisfactorily and completely this grand ideal that, on materializing, would mean the final conquest of peace between the nations of the American continent, through the strength alone of the universal principles of equity and justice, consecrated in a concrete and solemn manner in the international juridical form. This legal consecration of authorized and indisputable doctrines of international law, although it may seem to be an arduous and complicated task in the presence of the divers systems and interests whose conflicts must be taken for granted, is none the less not an unsolvable problem when it is considered from the view point, not of immediate circumstances, but of the supreme needs of the future.

The benefits of every nature resulting from the assurance of peace are always unlimited, such as the certainty of the existence of the sovereign states, confidence in the loyalty of their political and economical relations fraternally fostered, and, lastly, the vigorous growth of public wealth resulting from the enhanced culture and activity of the nations.

All these functions of the autonomous lives of the American States can be established and secured by us without fear of affecting or delaying their actual march toward progress. They would, on the contrary, become creditors of the respect of the civilised world and give an instructive example by building up for their future international relations a standard, clear and impartial, of the positive international law. Of course, in this kind of juridical work, from the start, opposed currents of appreciations and general interests must appear, just as these appear in the framing of constitutions and internal organizations of states; but in the case of the codification of International Law the horizon is immense and does not offer the difficult shoals of the common and irreducible party strifes. A debate, serene and learned, maintained in the higher intellectual and moral regions, where exalted passions and absurd theories cannot rise, basing itself on the fertile ground of science, philosophy and history, would ennoble the subject beyond all expression: all reasoning and all debate would be fountains of learning, and of talent and delicate manifestations of that special eloquence of souls wholly possessed by the sublime ideals of justice, of



love and of liberty among nations. And it is only by considering the subject in the light cast by the Brazilian initiative that one acquires the firm conviction of its possible and favorable solution on a day, perhaps near to us, that shall be one of happiness and glory for the nations that have faith in justice, that love liberty and independence as precious boons of life, that believe in the softening influence of modern civilisation and that look forward impatiently to the coming triumph at all that is right. The American nations that up-hold such justified and legitimate ambitions as those of creating a legislation, the same for all, based on strict and mutual respect and equitable responsibility, leveling the duties and the rights of free states to the rational and just consideration of the new dogma that proclaims the force of right as the only sacred law worthy of the observance of cultured communities; these nations, without doubt, have received with joy and shall remember with deep gratitude the admirable work of the Government of Brazil directing, through its eminent organs, Messrs. Pessoa and Rodrigues Pereira, until completion, two drafts of International Public and Private Codes as submitted to the assembly of Jurisconsults.

As a testimony of sincere adhesion to the great continental juridical work proposed by Brazil, the Salvadorian Delegation wishes to manifest its high aspirations in this struggle for the triumph of the most admirable conception toward securing peace that could characterize contemporaneous civilization.

The Salvadorian Delegation in this Assembly of Jurisconsults fulfils its duty of expressing loyally the spirit of its tendencies in the matter of codification of international law and has the honor of asking the Chair that this special vote be inserted in the minutes of the meeting.

THE PRESIDENT:—The discussion of the minutes continues. (Pause.) If no one else wishes to speak I shall consider them as approved.

They are approved.

The order of the day on the table shall now be read.

The order of the day consists of the report of the Committee of five, the draft of which has been sent to all the delegations. If, however, any of the delegates have failed to receive it, I shall have same read; if not, the reading shall be dispensed with, the subject being considered as known to all. (Pause.)

The silence of the delegates is considered by the Chair as meaning that the reading can be dispensed with. The report of the Committee of five is, therefore, under discussion.

Mr. ALONSO REYES GUERRA:—I am aware that I am addressing prominent and cultured representatives of American nations, and therefore I count on the benevolence with which they shall listen to and judge the ideas that I shall now expound.

The project at this moment under consideration must be looked upon from two principal points of view; first, whether it responds to general aspirations; next, whether it answers to the very reason for the Conference, the thought of the Third International American Congress in creating same.

In my mind it does not satisfy the noble aspirations of that Congress.

The preparation of International Public and Private Law Codes presupposes and requires a work of unity and correlation between the whole and its component parts, of general comprehension reflected by an organism methodically evolved, about the nuclei of principles constituting International Law.

In this form and with this method, the work is already delineated in the two projects that from the beginning were submitted to the consideration of the Conference, and to the Conference behoves the mature examination and criticism thereof with a view to an ultimate rearrangement and approval in conformity with the needs and the legitimate aspirations of the American States. In consequence, and on the amply studied basis of these projects, should the work of evolving its different parts be distributed among the delegations present, without the need of creating new legislative committees. Each delegation would study and weigh, in accordance with the general purport of the projects, the concrete point allotted to it, being free to propose alterations, corrections or extensions, not only regarding the indicated subject but also concerning any other related to the work, with the obligation to present its report on the date set for the next meeting of the Conference.

We must not forget the obligation that, morally, the nations of the continent have assumed in favor of this elevated pacific idea. It is indispensable that the assembly of jurisconsults should inspire itself from a clear, concrete and scientific conception, very different from that contained in the report of the Commission. I believe that if this last project be adopted we shall have divorced ourselves considerably from the idea of the codification of International Law. If we should enter into this by-way we should remain so far from the primitive conception that, not only would our labors lose their exceptional interest and merit, but they

would dwindle into the common-place order of agreements and conventions, things that are not the equivalents of the codes it is desired to produce; and, diverting us from the end in view, we should destroy the very edifice which we seemed eager to construct.

In the place of hope and prestige, we should bring upon our cause a great deception, and neither the nations interested nor their governments would very long have faith in the possibility of a work delayed for an indefinite time. This difficulty, this danger, is more serious than we can foresee. If we fail in a work dictated by intelligence, animated by the sentiment of purest justice, the resplendent work of right, we, of this continent, should separate instead of congregating, should divide ourselves instead of consolidating and making secure for the future our great moral interests, the beautiful ideal of the primitive convention should fall into discredit. And what of our responsibility in the future? How about the governments and the nations that shall pass on our resolutions; patriotism baffled before an unapproachable problem; the deception of the men of science that shall analyse our conclusions, all of this tells us to meditate upon this proposition: one thing is to codify the general principles of International Law, to serve as the expressed and juridical guide for the mutual intercourse between nations, doctrine being converted among them all into precepts, duty into obligation, abstract into positive law, marching straight forwardly towards equity, life and justice, and another very different and secondary thing is to prepare isolated projects for extradition and execution of sentences, questions pertaining to the domain of existing treaties between the greater number of American nations and that even so fall under special rules for practical application in all constitutions of modern States!

We can still less fail to see that these are not the matters of most urgent or transcendental benefit that the codification of international law implies, since the doctrines relating thereto, universally authorized, are respected and applied, without the celebration of treaties, among civilized nations.

What is of interest is to show here to-day to the world if the American States can and will codify international law, the theory of which is accepted for their mutual relations. In the affirmative, it must be admitted that this work cannot consist in a partial effort under each heading, overloaded with the details of the legislation of each country in every branch; for this would seem to be more like an attempt to unify or harmonize internal laws, which is immaterial to the practice of international law



and usages, and would not be required even if it could be applied with perfect juridical force among nations.

Science, philosophy, history, and not intrinsically, politics, must be the characteristic and firm ground work of this immense construction.

It suffices to know with Bentham the conceptions of jurisconsults and professors, Liebet and Katchenovski, and the projects of eminent authors such as Parodo, Dudley Field, Blunstedli and Fiore, whose method was followed in the project of Messrs. Pessoa and Rodrigues Pereira, to form an exact idea of the magnitude, nature and development of the undertaking confided to the International Conference of Jurisconsults.

In the second place, the work of the delegations in this assembly must have an exclusively scientific character. This consideration has a capital influence in the success or failure of the Conference. As a matter of fact, if the delegations were to attend to the actual interests of the external politics of America, the codification of International Law would become a problem of exceedingly difficult solution; the prevailing thoughts would circle in exceedingly narrow orbits and the investigations and studies would never mature into fruit; there being no merit and object in the organization of an assembly composed of professors on this subject, when the task could have been better confided to the particular organ of diplomacy. We cannot and must not admit such a hypothesis, for the preparation of codes of International Law by an assembly of diplomats, would indeed be an incomprehensible idea, for where the fearful and susceptible soul of politics represents the directive characters, the ample, well-balanced and harmonious constructions of science cannot rise. On such a sterile ground, thought loses its virtue and its creating action.

Hope is the last light to fail in the human heart. I hope that our work shall be fruitful and that the criticism of statesmen and philosophers shall not find therein reasons to doubt of the sincerity with which we collaborated in the most beautiful of monuments to international justice and peace.

With the above I have justified my vote against the project under discussion.

**THE PRESIDENT:**—To continue the discussion. I shall wait until the Delegate of the United States becomes cognizant of the vote just submitted by the Salvadorian Delegate. (Pause.)

The discussion of the report presented by the Committee continues. If none of the delegates wish to speak, I shall declare the discussion closed and shall proceed to an immediate vote on the report.



The voting must naturally be made in parts. The report of the Committee refers first to projected internal regulations and thereafter to a plan for organization and method of working for the Committees into which it is proposed to divide the Conference of Jurisconsults. I request the delegates to say whether they wish to vote on the project for internal regulations as a whole or by articles.

Mr. CARLOS RODRIGUES LARRETA FILHO:—It seems to me, Mr. President, that the discussion can be announced, and, if it gives rise to no observations, the project be voted as a whole.

THE PRESIDENT:—I have already announced the discussion of the report of the Committee.

Mr. CARLOS RODRIGUES LARRETA FILHO:—From my standpoint, three votes have to be taken: one on the projected internal regulations, another on the question of organization and method of working of committees, and a third on the joint resolution of the sub-committee appointed, as this last part contains, for example, the resolution that this Committee meet again in the City of Rio de Janeiro in June, 1914, which is not included in any of the two projects.

THE PRESIDENT:—It is on this account that I submitted to the Conference the report in all its items and asked it to declare whether we should proceed to vote on the first part, viz., the projected regulations as a whole, or article by article.

Mr. NORBERTO QUIRNO COSTA:—As all the delegates President, that we should vote in the first place on the report of the sub-committee as a whole, and then consider the project for regulations, which is the first. The report of the sub-committee once voted upon as a whole, we shall vote on the projected regulations, considering these article by article, and considering approved those that meet with no opposition.

THE PRESIDENT:—In accordance with the indication of the Argentine Delegate, I shall submit to vote the report of the sub-committee and thereafter, in particular, each of its articles.

Mr. ALBERTO ELMORE, Delegate for Peru:—Mr. President, the Delegation for Peru, on signing this report, did so only because the Delegation for Brazil had already subscribed to it, and as it was this Republic that called this assembly and framed the projects, the Peruvian Delegation thought it right to place its signature where the Brazilian Delegation had signed.

Mr. NORBERTO QUIRNO COSTA:—As all the delegates have received copies of the project for regulations as well as of that for the organisation and method of working of the Committees, I would propose that only the number of each article be indicated by the Secretary instead of reading them, and, none of

the delegates making any remarks, that they be considered approved.

The General Secretary informs the Conference that the Delegation for the United States votes under the reserves that are already known.

THE PRESIDENT:—Let the members who approve the report of the sub-committee remain seated. (Pause.) It was approved against the vote of the Salvadorian Delegation and under reserves by the Delegation for the United States of America.

Mr. ANTONIO BATRES JAUREGUI, Delegate for Guatemala:—I desire that it should appear in the minutes that the Delegation for Guatemala votes in the same sense as that of the United States; viz., provisorily as to the treaties of extradition and execution of foreign sentences. In relation to all other points, however, it agrees entirely.

THE PRESIDENT:—The General Secretary shall proceed to read the reserves made by the American Delegation to see if the Delegate for Guatemala agrees therewith.

The General Secretary proceeds to read the following:—

«The American Delegation signs the report of the sub-committee under provisory reserves as to the recommendation that committees be appointed to prepare drafts of codes on extradition and the execution of foreign decisions to be adopted by the Conference at its present session.»

Mr. ANTONIO BATRES JAUREGUI:—The Delegation for Guatemala votes exactly in the same sense, and agrees with the rest.

THE PRESIDENT:—Now that the report of the sub-committee has been approved against the vote of the Salvadorian Delegation and under reserves by the American and Guatemaltecan Delegations, I shall submit the project for internal regulations to the vote of the Conference. The General Secretary shall announce the articles by their numbers. If any delegates wish to make observations in regard to the articles as announced, let them kindly formulate these to be taken into consideration.

The General Secretary announces the articles of the project for internal regulations, which are approved without remark.

The internal regulations have been approved without remarks.

We shall now proceed likewise in regard to the project for organization and method of working of the committees.

After like proceedings the articles of the project are approved.

There now remains the third part of the report, that referring to the indication of the month of June, 1914, for the second meeting of the Conference of Jurisconsults in Rio de Janeiro. In accordance with the suggestion of Mr. Norberto Quirno Costa, I shall submit this third part to the vote of the Conference.

Let the members who agree that the second meeting of the Conference be held in this City in the month of June, 1914, remain seated. (Pause.) It was approved.

Mr. CARLOS RODRIGUEZ LARRETA FILHO, Delegate for the Argentine Republic:—Mr. President, I beg of you to have it appear in the minutes that the third part of the report was unanimously approved.

THE PRESIDENT:—Your request will appear in the minutes.

In accordance with the first article of the regulations approved in to-day's meeting, we must proceed to the designation, by drawing lots between the different delegations, of the delegations who must replace the President in case of absence.

The General Secretary takes out, one by one, slips from an urn, reading the names of the delegates written thereon.

To substitute the President in his absence the delegations for Paraguay, Salvador, United States of America, Panamá, Venezuela, Cuba, Columbia, Guatemala, Peru, Mexico, Argentine, Equador, Costa Rica, Chile, Uruguay and Bolivia were drawn in the order read.

Again, in accordance with the dispositions of Art. 1 of the regulations, the delegations must indicate the delegates that, in case of absence of the President, shall preside at the session. Each delegation may send to the Chair the name of the delegate indicated. (Pause.)

The list of substitutes for the presidency has been thus organized: Paraguay, Mr. Cecilio Baez; Salvador, Mr. Alonso Reyes Guerra; United States of America, Mr. John Bassett Moore; Panamá, Mr. Santiago de la Guardia; Cuba, Mr. Aniceto Valdivia; Columbia, Mr. José Maria Uricoechea; Guatemala, Mr. Antonio Batres Jauregui; Peru, Mr. Alberto Elmore; Mexico, Mr. Victor Manoel



Castillo; Argentine, Mr. Quirno Costa; Equador, Mr. Matias Alonso Criado; Costa Rica, Mr. Alejandro Alvarez; Chile, Mr. Miguel Cruchaga Tocornal; Uruguay, Mr. Juan Zorrilla de San Martin; and Bolivia, Mr. Sangines.

One of the already adopted conclusions of the report of the Committee is that which provides that we appoint at this meeting two committees of five members each that shall have the mission, one of preparing at this meeting a project on extradition, the other a project on the execution of foreign sentences. In accordance with this disposition, I shall proceed to name the members of these sub-committees.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—As it is very useful for the execution of these tasks that the President take part therein, and as his Excellency cannot designate himself, I propose to the Conference the name of Mr. Eпитacio Pessoa to form a part of the Committee in charge of preparing a project for extradition.

THE PRESIDENT:—The Argentine Delegation, considering that the President cannot appoint himself, proposes that he be designated a member of the Committee in charge of preparing the project for extradition.

Let the members who agree to the proposition remain seated. (Pause.) It was approved.

I am grateful for this proof of consideration that the delegates have given me, I shall now appoint the other four delegates who shall constitute, with myself, the Committee on extradition. I name the following gentlemen: John Bassett Moore, Carlos Rodriguez Larreta, José Pedro Varela and Cecilio Baez.

Mr. JOHN BASSETT MOORE, Delegate for the United States:—Mr. President, while thanking you for the inclusion of my name among those of the delegates who are to constitute the committee in charge of preparing the code on extradition, I must decline this honor, as, having already formed a part of the committee of five, I beg that in my stead a delegate be appointed from some of the countries that have not yet been represented in a committee.

THE PRESIDENT:—If there is no manifestation to the contrary, I name in lieu of Mr. John Bassett Moore the Delegate for Equador, Mr. Matias Alonso Criado. (General sign of assent).

The Committee shall therefore have the following composition: Matias Alonso Criado, Carlos Rodriguez Larreta, Cecilio Baez, José Pedro Varela and Eпитacio Pessoa.



I name to constitute the commission in charge of the project referring to the execution of foreign sentences the following delegates: Miguel Cruchaga Tocornal, José Batres Jauregui, Roberto Ancizar, Victor Manoel Castillo and Candido Luiz Maria de Oliveira.

Now that the committees have been named, I shall make free to ask the delegates who form part thereof to get through their labors as hastily as possible, and, as soon as the partial projects are prepared, that they so inform the Chair in order that a new meeting may be called, to whose criterium these projects must be submitted.

Mr. MIGUEL CRUCHAGA TOCORNAL, Delegate for Chile:—Mr. President, to-morrow, 9th of July, the glorious anniversary date of the Independence of the Argentine Republic shall be celebrated with natural joy. In the name of the Delegation for Chile, I therefore have the honor to propose that all the delegates rise as homage of friendly sympathy toward this Republic our friend.

As a sign of approval, all the delegates remain standing for some minutes.

Mr. CARLOS RODRIGUEZ LARRETA:—Mr. President, the Argentine Delegation expresses its heartfelt thanks to the Conference and to the Delegation for Chile for the homage that has been rendered to its country.

THE PRESIDENT:—In the name of the delegation for Brazil and in my own, I join, in the fulness of my heart, in the kind manifestation made by Mr. Miguel Cruchaga Tocornal in honor of the Argentine Republic, whose glorious anniversary date is celebrated to-morrow.

Before closing the meeting I must communicate to the Conference of Jurisconsults that to-morrow some Brazilian Societies will hold festivals in this City in honor of the 9th of July, and I shall take leave to ask, as a special favor, that the delegates, who are all animated by the same spirit of solidarity, assist from this house at 1 p.m. to these festivities.

At 8 p.m. there shall also be held here a gathering of some personalities of our society and official world, to assist in the parade and «marche aux flambeaux», and this feast would gain in brilliancy if the delegates would kindly consent to being present with their families.

The Chair shall call a new meeting of the Conference as soon as it receives the result of the labors of the committees that have just been appointed.

If the delegates have anything to propose, I shall be glad to hear them.

Nobody asking the floor and there being nothing further to discuss, I declare the meeting ended.

The meeting was closed at 4 p.m.

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### THIRD ORDINARY MEETING

JULY 12th. 1912

At 2 p.m., there being present the following delegates: Mr. Epitacio Pessoa, for Brazil; Mr. John Bassett Moore and Mr. Frederick van Dyne, for the United States of America; Mr. Norberto Quirno Costa, for Argentine; Mr. Victor Sanjinés, for Bolivia; Mr. Miguel Cruchaga Tocornal and Mr. Alejandro Alvarez, for Chile; Mr. José Maria Uricoechea and Roberto Ancizar, for Columbia; Mr. Alejandro Alvarez and Matias Alonso Criado, for Ecuador; Mr. Antonio Batres Jauregui, for Guatemala; Mr. Victor Manoel Castillo, for Mexico; Mr. Santiago de la Guardia, for Panamá; Mr. Cecilio Baez,\* for Paraguay; Mr. Alberto Elmore and Mr. Hernan Velarde, for Peru; Mr. Alonso Reyes Guerra, for Salvador; Mr. Juan Zorrilla de San Martin, for Uruguay; Mr. Pedro Manoel Arcaya, for Venezuela; Mr. Candido Luiz Maria de Oliveira, for Brazil, the meeting is declared open.

The minutes of the preceding meeting are read.

THE PRESIDENT:—The minutes are under discussion.

Mr. ALONSO REYES GUERRA, Delegate for Salvador:— I would beg the President to have inserted a correction in the minutes in regard to my contrary vote. I did not vote against the projected regulations, by votte, on the contrary, being favorable to these and only contrary to the project in regard to the distribution of the labors of the Committee; all the rest was therefore approved by me. Hence there was a unanimous approval, except only on the question of the distribution of the work, which had been placed under discussion and in regard to which I dissented. Nothing more.

THE GENERAL SECRETARY, Mr. Souza Bandeira:—Do I understand that the honorable delegate wishes to have it made clear that his negative vote was only in regard to the distribution of the work of the Committee.

Mr. ALONSO REYES GUERRA, Delegate for Salvador:— Yes, Mr. Secretary; in regard to the other points not only have I not opposed them, but I have in fact voted in the affirmative.

THE PRESIDENT:—Due note thereof shall appear in the minutes.

Mr. ALBERTO ELMORE, Delegate for Peru:—I must make it clear that in the minutes the form in which the Peruvian Delegation accepted the views of the Committee in regard to the program of the labors was omitted, for the Delegate for Peru signed the report solely in consideration of the fact that the Republic of Brazil had convoked this assembly and had assumed the preparation of the work of codification and its delegate had subscribed to the report. I desire that this explanation should appear.

THE PRESIDENT:—So it will.

Mr. JUAN ZORRILLA D ESAN MARTIN, Delegate for Uruguay:—I wish, Mr. President, to call your attention to the fact that the name of Mr. José Pedro Varela, my companion on this delegation, who was present at the preceding meeting, was omitted.

I also seize the opportunity to state that Mr. José Pedro Varela, for reasons altogether beyond his control and much to his regret, has had to leave the Capital of Brazil and apologizes to his honorable colleagues for his absence from the future meetings of the Conference.

THE PRESIDENT:—Due note thereof shall appear.

Mr. JUAN ZORRILLA DE SAN MARTIN, Delegate for received a telegram from the Republic of Cuba, worded as follows:

«Mr. President: I have the honor to bring to your knowledge the following telegram just received from the Republic of Cuba: «In order that Cuba should not fail to be represented in the Conference of Jurists, even if at a late moment, owing to circumstances that, luckily are of the past, I have appointed Messrs. Manuel Marques Sterling, Minister of Cuba in Lima, and Aniceto Valdivia, Minister of Cuba in Rio de Janeiro, for this purpose; begging of you to recognize them in this capacity under the understanding that I shall forward their credentials by mail. I salute your Excellency. —Manuel Sanguily, Secretary of State of Cuba''. And begging you to bring these appointments to the knowledge of the International Conference of Jurists, I take the opportunity to renew before your Excellency the assurance of my perfect esteem and distinguished consideration.—Lauro Muller.»

THE PRESIDENT:—We shall now proceed to read a communication from the Delegation for Peru.



The following is read:

The Delegation for Peru, interpreting the sentiments of sympathy with which each one and all of the members of the International Conference of Jurists participate in the sorrow of the noble Brazilian nation over the death of one of its best sons, the eminent republican who was Quintino Bocayuva, whose name is a symbol of all public and private virtues,

Proposes:

- 1.—That the Conference suspend to-day's meeting as a token of grief;
- 2.—That the flags of the American nations flying from the Monroe Palace be placed at half mast during three days.
- 3.—That the Conference appoint three of its members to deposit in its name a wreath of natural flowers on the tomb of Quintino Bocayuva as a homage of America, that he not only knew how to illustrate by participating in great achievements in this history of his country, but also by placing himself in the foremost rank among leading men of the continent; and
- 4.—That on the approval of this motion it be communicated, through the General Secretary, to the worthy family of the illustrious deceased.

Rio de Janeiro, July 12th, 1912.

(Signed) Alberto Elmore—Hernán Velarde.

THE PRESIDENT:—The motion is under general discussion.

Mr. MATIAS ALONSO CRIADO, Delegate for Equador:—Mr. President, the Delegation for Equador had the intention of presenting just such a motion as that formulated by its sister from Peru and therefore I intimately associate myself in the deserved homage rendered to the memory of that illustrious republican Bocayuva.

His death is not only lamented in Brazil, but also among all American nations, for the name of this great Democrat had grown beyond the borders of his native land and in his laborious existence his voice had echoed in sympathetic fraternity toward all the nations of the continent.

The public life of the illustrious departed, his protracted crusade of 60 years of struggle for democracy and the abolition of slavery deserve the applause and admiration of mankind. I had thought of asking the Conference that Mr. Juan Zorrilla

de San Martin, Delegate for Uruguay, be named as its interpreter to speak in its name at the funeral ceremony and express all of our sorrow. The excessive modesty that the great man that Brazil weeps to-day and for whom all of America mourns, forbids me to accomplish this desire, for it was the posthumous will of Bocayuva that his remains be deposited in our mother earth without any ceremony.

While respecting such a sacred will, I applaud the initiative of the Delegation for Peru demanding for the memory of the patriarch of democracy in this country the homage of everlasting remembrance of his exalted merits and services to Brazil, for the honor of his name and glory of America.

Mr. MIGUEL CRUCHAGA TOCORNAL, Delegate for Chile:—Brazil, Mr. President, has just suffered a great national misfortune by the death of its eminent citizen, Quintino Bocayuva, the glory of the American land, that shone like a star of the first magnitude owing to his high qualities as a politician, a statesman, a man of letters, a newspaper man and an excellent orator.

He presided the debates of the Senate with remarkable proficiency and tact and his loss fills the noble Brazilian nation with grief.

The Chilian Delegation, Mr. President, associates itself cordially to the motion made by the delegation for Peru.

Mr. JOHN BASSETT MOORE, American Delegate:—Mr. President: The American Delegation associates itself entirely with the proposal made by the Delegation for Peru in regard to the death of Dr. Quintino Bocayuva.

Mr. ALONSO REYES GUERRA, Delegate for Salvador:—I wish, Mr. President, to have it recorded that the Delegation for Salvador adheres, with the assurance of profound sympathy toward Brazil, to the proposal made by the Delegation for Peru.

Mr. JUAN ZORRILLA DE SAN MARTIN, Delegate for Uruguay:—My silence alone, Mr. President, would mean adhesion; but there is a natural law of the mind that seems to demand the use of human speech on certain occasions, and this is certainly one of them.

Yes, I believe that, as the representative of the Republic of Uruguay, that, like its other sisters of America, and perhaps owing to more direct reasons, feels itself hurt in its heart by the death of the illustrious Brazilian for whom all of us weep, I must formulate my adhesion in words although these be not more expressive than silence.

I would fain have desired to leave my words within these walls, Mr. President; I would fain have wished to life my voice in testimony of brotherhood with all the nations of America that are represented here, and, especially, in testimony of great love for this Brazilian land that gives us hospitality; I would perhaps have had many an occasion to speak these friendly words and leave this remembrance with the desire that it be lasting. All of us were entitled to hope that the occasion would come to do so in moments of happiness, as have been all those that up to now we have passed in the Capital of Brazil. But alas! it must be in a moment of sadness.

Albeit, sorrows, as that which we now feel, gentlemen, are occasions for love. The remembrance that remains of past joys may be lasting, Mr. President; but much more so is that which lingers of glorious bitterness shared together.

All American nations are at the present moment bound together by the deep emotion of a common sorrow and all feel bound to Brazil, because it was the first to feel the terrible pain that we all experience by the death of the illustrious man that all of America glorifies at this minute on shedding tears over his death.

Thus it is that, as Delegate for the Republic of Uruguay, I adhere in great sincerity of heart to the manifestation of mourning has been proposed by the delegation for Peru, as an expressive homage to the great son of our great sister, the Republic of Brazil.

Mr. VICTOR MANOEL CASTILLO, Delegate for Mexico:—The Mexican Delegation, Mr. President, shares the national mourning for the great man that has just disappeared from the realm of the living.

Mr. BATRES JAUREGUI, Delegate for Guatemala:—In all sincerity, Mr. President, the Delegation for Guatemala tenders to the Brazilian nation its cordial sympathy over the loss of its most eminent son.

His memory shall last, not only in Brazil, but in all of America, and I request that in the minutes there appear that the Delegation in whose name I speak, experiences great sorrow at the irreparable disaster that its sister Republic, Brazil suffers at this moment.

Mr. ALEJANDRO ALVAREZ, Delegate for Costa Rica:—The Delegation of Costa Rica, Mr. President, associates itself in the fulness of its heart to the grief of the noble Brazilian nation at the loss of an eminent citizen and statesman.



Mr. VICTOR SANGINES, Delegate for Bolivia:—My presence in this assembly coincides with the misfortune that has overtaken Brazil owing to the death of that most eminent among American republicans, Quintino Bocayuva, and it is for me a transcendental duty to express in the name of the Bolivian Delegation, in that of my Government and in my own, the deep sorrow that we feel, and to offer to our sister republic our cordial and sincere condolences which I beg to have appear in the minutes of this meeting.

Mr. CECILIO BAEZ, Delegate for Paraguay:—The Delegation for Paraguay accomplishes the duty of manifesting that it shares the mourning of Brazil over the death of one of its most illustrious sons, Quintino Bocayuva, and sincerely adheres to the motion presented to this assembly by the Delegation for Peru.

Mr. JOSE MARIA URICOECHEA, Delegate for Columbia:—The Delegation for Columbia, Mr. President, cordially shares the mourning that weighs at this moment over the great Brazilian nation and fully adheres to the proposal that has just been presented of a homage to the illustrious departed.

Mr. SANTIAGO DE LA GUARDIA, Delegate for Panamá:—The Delegation for Panamá associates itself with the delicate manifestation of condolence that the Peruvian Delegation has addressed to the Brazilian nation.

Mr. ANICETO VALDIVIA, Delegate for Cuba:—The Delegation for Cuba, Mr. President, associates itself with the immense sorrow of Brazil over the loss of the great republican and great patriot who was Quintino Bocayuva.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—I am deeply affected, Mr. President, by the death of the enlightened citizen who was Quintino Bocayuva. More than a national it was a continental misfortune, for the elevated sentiments of this great patriot mad more than once and among different periods revealed themselves in the history of American nations.

As a Delegate for the Argentine Republic to this Congress, I adhere fully to all the manifestations—and all shall be too little—made to the illustrious patriot whose disappearance we all lament.

Mr. CANDIDO LUIZ MARIA DE OLIVERIA, Delegate for Brazil:—Under the deep emotion arising from the great loss which we have experienced, in the name of the Delegation for Brazil, I tender sincere thanks for the manifestations that all the delegations have just made.



THE PRESIDENT:—I submit to the consideration of the assembly the proopsal just made by the Delegation for Peru, to the effect that the meeting be adjourned as a token of sorrow over the death of Mr. Quintino Bocayuva, that the flags of the American nations flying from the Monroe Palace remain at half-mast for three days; that a committee of three members be appointed to accompany his remains to their last abode and that these resolutions be made known, through the General Secretary, to the family of the illustrious departed.

(The motion is voted without remarks)

THE PRESIDENT:—The motoin was unanimously approved.

In accordance with the will of the Conference, I designate Messrs. Hernan Velarde, Miguel Cruchaga Tocornal and Norberto Quirno Costa as a committee to accompany the mortal remains of Quintino Bocayuva.

Mr. Candido Luiz Maria de Oliveira has just thanked in highly expressive terms, in the name of Brazilian Delegation, the Conference for the manifestations of sorrow formulated by the delegates at the loss of Quintino Bocayuva.

Before closing the meeting, I wish to renew these very sentiments, not only in my individual name, but for all of the Brazilian Delegation represented besides the delegates by the secretaries and all those that are attached to the delegations and are in the service of the provisory committees.

Gentlemen, Brazil has, in fact, just suffered an irreparable loss. Quintino Bocayuva was one of the greatest men of Republican Brazil, for he prepared and contributed in the establishment of the Republic by one of the most strenuous and famous propagandas among those registered in our political history. Through his enlightened mind always open to the most elevated ideals; through the greatness of his heart, always open to the most generous sentiments; through his lofty combative spirit, united to the most chivalrous moderation and noble tolerance; through his great patriotism, pure, full of abnegation, ready for all sacrifices, Quintino Bocayuva was a leader of men, was an incarnation of civic virtues, an example to follow and imitate.

Among us he was known as the «Patriach of the Republic», and with reason, considering his high resopnsibilities in the introduction of the reupblīcan regime in this country; considering as well his constant attention, his jealous care, his zeal for the institutions he had founded, his words of counsel that were the blessed apllium under which the institutions, that during his whole life he contributed to prepare, found shelter; those institu-

tions for which during his whole life he fought and for whose prosperity he took an interest greater than that of any other. The loss that Brazil has suffered is hard, cruel, and truly irreparable. You may, gentlemen, therefore well imagine how much we appreciate the manifestations of sympathy that you have just voted and how they find their way to our hearts.

Before closing the meeting, I must communicate to the delegates that the next meeting will take place to-morrow at the customary hour, that is, 11 p.m.

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#### 4th. ORDINARY MEETING

JULY 13th. 1912

At 1 p.m., the following delegates being present, to wit:—Mr. Epitacio Pessoa, for Brazil; Mr. John Bassett Moore and Mr. Frederick van Dyne, for the United States of America; Mr. Norberto Quirno Costa, for the Argentine Republic; Messrs. Miguel Chuchaga Tocornal and Alejandro Alvarez, for Chile; Messrs. José Maria Uricoechea and Roberto Ancizar, for Columbia; Mr. Alejandro Alvarez, for Costa Rica; Mr. Aniceto Valdivia, for Cuba; Messrs. Alejandro Alvarez and Matias Alonso Criado, for Equador; Mr. Antonio Batres Jauregui and José Matos, for Guatemala; Mr. Victor Manuel Castillo, for Mexico; Mr. Santiago de la Guardia, for Panamá; Mr. Cecilio Baez, for Paraguay; Mr. Alberto Elmore and Hernan Velarde, for Peru; Mr. Alonso Reyes Guerra, for Salvador; Mr. Juan Zorrilla de San Martin, for Uruguay; Mr. Pedro M. Arcaya, for Venezuela; Mr. Candido Luiz Maria de Oliveira, for Brazil, the meeting is declared open.

THE GENERAL SECRETARY, Mr. J. C. de Souza Bandeira:—Before beginning the reading of the minutes of the last meeting, I must call the attention of the delegates that they are but a resume of the final minutes to be gotten up from the stenographers' notes, in such a manner that the observations that may be made by the delegates shall be opportunely attended to and inserted in the final minutes that shall be joined to the records of the Conference.

The minutes of the preceding meeting are read and  
and without remarks

Mr. JOHN BASSETT MOORE, Delegate for the United States:—Mr. President, I wish to make now a communication that it was not given to me to make at the preceding meeting.

In my capacity of Chairman of the sub-committee in charge of reporting on the final regulations of this assembly, I am sure I express the general sentiment of its members in making known



their appreciation of the untiring and useful labors of Mr. Alejandro Alvarez, Delegate for Chile, and especially the talent and ability which he demonstrated in the wording of the regulations which were approved by the Committee. His zealous and intelligent interest for the great work which is allotted to the International Conference of Jurists is still further evidenced by the work he has lately published under the title of «La Codification du Droit International.»

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—I am grateful in my heart, Mr. President, for the benevolent remarks that has just been uttered by our colleague on the Committee, Mr. John Bassett Moore.

Nothing seems more pleasant to my mind than to have lent my modest contribution to the organization of the Assembly of Jurists in such a manner as to render it able to perform properly the great work that the States of America expect from it.

All of the delegations have given proofs of the greatest cordiality and the success obtained by the special committee—a very important item—is due to the work of its eminent member, Mr. John Bassett Moore, that, through his learning and talent has earned not only an American, but a worldwide reputation.

THE PRESIDENT:—We have on the table the report of the special committee in charge of organizing the project on extradition. As the report and the project have already been distributed to all of the delegates, I think it unnecessary to have them read. Unless there be opposition thereto, I shall submit to the approval of the Conference the project presented by the Special Committee in charge of this work. It seems to me that the best method to adopt is to read each of the articles, submitting them immediately to the judgment of the Committee. (Pause.)

If there be no remarks in a contrary sense, the General Secretary will read Art. 1.

THE GENERAL SECRETARY:—Art. 1—Extradition is obligatory among the States.

THE PRESIDENT:—Art. 1 is under discussion. If none of the delegates wish to speak I shall proceed to take a vote. In accordance with Art. 4 of the Internal Regulations, the votes must be taken verbally, each delegation having but one vote. In these terms, the General Secretary will proceed to call the delegations by nations and as these are called they shall give their vote.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—It seems to me, Mr. President, that the spirit of the regulations is not to take a vote as you have just mentioned. I understand that the voting by delegations can be done when there is a discussion or opposition, but in the case of such



articles as elicit no opposition it seems to me that it would take up too much time to take the votes delegation by delegation.

I would propose that all the articles or items that do not give rise to opposition be approved, which in no wise alters the regulations which gives rules for the voting, but only in cases where there is opposition.

**THE PRESIDENT:**—Mr. Norberto Quirno Costa proposes, as a means of hastening our work, that instead of voting on each article of the project, same be read and those that elicit no opposition be considered as approved.

Let the delegates who favor the proposal of his Excellency remain seated. (Pause.) It was approved.

In accordance with the motion just approved, the articles shall now be read.

Art. 1 has already been read. Let the delegates who approve it remain seated. (Pause.) It was approved.

**THE GENERAL SECRETARY:**—Art. 2—To obtain extradition it shall be necessary:

(a) that the State calling for same shall have jurisdiction to try and judge the fact on which it is based;

(b) that the individual claimed be responsible, as principal or accomplice, for a violation of penal law punishable in both States by not less than one year's imprisonment;

(c) that the State calling for the extradition present documents that, in conformity with its laws, authorise the arrest of the person claimed (Art. 13);

(d) that the offence or punishment be not prescribed in accordance with the laws of both States;

(e) that the refugee, if he has undergone a condemnation, shall not yet have served his penalty.

**Mr. ALBERTO ELMORE:**—Mr. President, I make myself so bold as to request that letter (c) of this Art. be discussed and voted upon separately, because it has a connection with letter (a) of Art. 13, and I would desire that its discussion be postponed until the moment when the Conference would discuss this last article.

**THE PRESIDENT:**—Then your Excellency desires to discuss letter (c) of Art. 2 when letter (a) of Art. 13 comes up for discussion?

**Mr. ALBERTO ELMORE:**—Yes, Sir.

**Mr. NORBRETO QUIRNO COSTA,** Delegate for Argentine:—Although this project is signed by my companion in the

Delegation, Mr. Carlos Larreta, this will not prevent me from making a simple observation, that is only a mere detail. In letter (b) of this article, where one year's imprisonment is put down as the penalty for which extradition may be granted, I would propose to raise this to two years, in the first place because this rule is the one adopted in all existing treaties on extradition and secondly because culprits punished with but one year's imprisonment are generally guilty of but slight offenses.

This is the only remark I make to this letter: that instead of one year there be inserted two years.

For this reason, Mr. President, it seems to me that we should vote letter by letter and consider as approved those that meet with no opposition.

**THE PRESIDENT:**—The Delegate for Argentina proposes that in letter (b) of Art. 2, instead of it being necessary that the individual whose extradition is asked be punished with one year's imprisonment, it read: by two year's imprisonment.

This amendment is under discussion.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—I very much regret, Mr. President, to have entered the Conference at a moment where its labors are already so far advanced, for it is only now that it was given to me to read the project under discussion.

It is true that I already knew Mr. Epitacio Pessoa's work, which, it is said, is in substance contained in this project, but I naturally would have liked to have more time to study the alterations that have been made therein.

There comes to my mind immediately a remark as to the imprisonment for one or two years, because offenses do not generally suffer the same penalties in the different States, hence it may be that the desired reciprocity may not be obtainable.

The system adopted at the Bolivian Congress seems to me more acceptable, this consisting in enumerating the offenses and stating: «Extradition shall be granted for such and such crimes», for in this manner there would be entire reciprocity.

**THE PRESIDENT:**—The Delegate for Venezuela proposes the following amendment: That instead of fixing a minimum limit for the penalty for which extradition is asked, that is, not less than one year's imprisonment as the project reads, or two years, as is proposed by the Delegate for the Argentine Republic, this disposition be replaced by a complete enumeration, with details of the offenses susceptible of authorising extradition.

The amendment proposed by the Argentine Delegate and that presented by the Delegate for Venezuela are under discussion.

Mr. NORBERTO QUIRNO COSTA, Delegate for Argentine Republic:—It seems to me, Mr. President, that the amendment just presented by the Delegate for Venezuela involves the same difficulty which has been found by your Excellency in regard to the fixation of one or two years' imprisonment, all the more so as the penalty can be altered by the different States. In addition, the enumeration of offenses in a code destined to be permanent, does not seem to me to be convenient. His Excellency's amendment would have its *raison d'être* if the code in question were for a limited period, but not so in the case of that, which occupies us, that is to govern indefinitely.

THE PRESIDENT:—The discussion continues. If no one else wishes to speak, I shall declare it closed.

Mr. CECILIO BAEZ, Delegate for Paraguay:—It is true, Mr. President, that many extradition treaties contain no enumeration of the offenses in virtue of which the delivery of a culprit that has taken refuge in a country may be requested; but this system has met with great difficulties, and on this account the writers on the subject, as well as the Institute of International Law, advise that the system of enumerating the offenses be abandoned and be replaced by a wording such as the one of the article under discussion.

I do not believe it necessary to make here a summary of the arguments that the writers have adduced to advise the abandonment of this old system, since speaking to an assembly of such eminent men as the present one, it would be unnecessary work.

I shall, therefore, restrain myself to pronounce these words as the opinion of the Special Committee appointed to frame and present the project now under discussion.

In its name, therefore, I insist on the maintenance of the article as it was worded, not insisting as to the fixation of one or of two years.

In adopting the one year limit, the Special Committee only consulted the project of Mr. Epitacio Pessoa, as well as the recent Brazilian law on extradition, where we found the consecration not only of the system, but also of the time limit for the penalty.

The second article of the Brazilian Law of July 28th, 1911, says that: «Extradition shall not be allowed in the following cases: where the offense is not punishable under Brazilian law by one year's imprisonment or more, at the least.»

With these precedents, in addition to the recent extradition treaties in which one or two years are indicated and adopted, I repeat the Special Committee insists upon the wording it gave to the article and the letter.



THE PRESIDENT:—The Delegate for Paraguay, in the name of the Special Committee, insists upon the wording of the letter of the article remain as it is, not insisting, however, as to the fixation of one or two year's imprisonment.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—I ask the floor, Mr. President, to give an information to the Conference.

The remarks of the Delegate for Paraguay refer to a law—I did not hear him well—I suppose to the Brazilian law. This law is the one that the country dictates in the case of reciprocity, where no treaty exists.

THE PRESIDENT:—In my capacity of member of the Special Committee, I must inform the Assembly that the Brazilian project that served as a basis for the labors of the Committee, fixes in fact as a limit the period of two years; but, the alteration made thereto on this point was on the suggestion of Mr. Carlos Larreta, Delegate for the Argentine Republic, accepted by the Delegate for Uruguay, Mr. José Pedro Varela, and by the other members of the Committee. (Pause.)

A vote shall be taken on the amendments proposed. Let the delegates that approve the one presented by the Delegate for Venezuela answer «Yea», and those that oppose it answer «Nay.» The General Secretary shall make a call by delegation.

The call being made, gives the following result: «Nays», United States, Argentine Republic, Chile, Colombia, Costa Rica, Ecuador, Cuba, Guatemala, Mexico, Panamá, Perú, Paraguay, Salvador and Brazil. «Yea», Venezuela.

The amendment was rejected by 15 votes against 1.

The amendment proposed by Mr. Quirno Costa shall now be voted upon. The delegates approving same shall answer «Yea» and those opposing «Nay.» The General Secretary will proceed to make the call.

The call being made, gives the following result: «Yeas», the delegations for the United States, Argentine, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Mexico, Perú and Uruguay. «Nays», Panamá, Venezuela and Brazil.

The amendment of the Delegate for the Argentine Republic was approved by 12 votes against 4.



No other amendments having been presented to Art. 2, I consider it approved, the wording of the amendment being substituted.

Mr. NORBERTO ELMORE, Delegate for Peru:—Mr. President, I had indicated that the discussion of letter (c) of this article be postponed until the Conference took up Art. 13. As letter (c) of Art. 2 has a bearing on Art. 13, I thought it advisable to separate this letter from Art. 2 to be discussed and voted upon along with Art. 13. Since this postponement cannot take place, I shall now make the observations that I have in view.

THE PRESIDENT:—I shall make free to call the attention of the Delegate for Peru to the fact that letter (c) of Art 2 treats of the presentation of documents that authorise the imprisonment of the individual whose extradition is asked, whereas it is in virtue of Art. 13 that the presentation of these documents can be required.

Mr. ALBERTO ELMORE, Delegate for Peru:—Mr. President, according to the laws of Peru, the writ of imprisonment indicates a special situation of the judge, in such a manner that the arrest of a person does not correspond to the writ of imprisonment, wherein the legislations of many countries that have kept certain Spanish judicial denominations agree. Thus it is this expression «that authorise the arrest», may have a dubious sense in the Peruvian legislation and, probably, in that of other nations that have been Spanish colonies.

I should propose that instead of saying «imprisonment», as in the project, the word «arrest» be used, this being a more general term and one that would avoid confusion as to its meaning.

THE PRESIDENT:—The amendment of the Delegate for Peru is under discussion.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—Mr. President, the Delegate for Peru is right when he says that many legislations establish a distinction between the terms «imprisonment» and «arrest», but the arrest is generally made on a simple suspicion. It is necessary that, in addition to such simple suspicion, there exist sufficient data to authorise the belief that the suspected party is responsible; and from this standpoint it must be borne in mind that on asking the required documents to order the imprisonment, something more be asked than what is needed for the mere arrest: the coroner's inquest and the proofs and presumptions required to suppose that the accused party is responsible.

Hence, I am of opinion that the article remain as it is. It is more energetic, more decisive, and, above all, now that the Conference have decided on the two years' limit instead of one, there is more reason to maintain the word «imprisonment» in order that on simple suspicion individuals be not arrested and extradited, when the first alone causes great inconvenience.

THE PRESIDENT:—The discussion continues.

Mr. CANDIDO LUIZ MARIA DE OLIVEIRA, Delegate for Brazil:—Mr. President, an arrest may be effected for civil motives, whereas extradition can only be granted when the law allows.

THE PRESIDENT:—I shall submit to a vote the amendment of the Delegate for Peru.

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—I believe, Mr. President, that the first thing to be voted is the proposal of the Committee; the amendments presented are modifications to be discussed after the rejection of the Committee's proposals. This is what I propose.

THE PRESIDENT:—Your Excellency proposes that we vote in the first place the project of the Committee?

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:

—Yes, Sir. I make this proposal because it is the rule generally followed in all parliaments. If there is a committee appointed, the report presented by that committee is voted upon first. If rejected, immediately thereafter the amendments thereto are taken up.

THE PRESIDENT:—Let such members as approve Mr. Quirno Costa's motion remain seated. (Pause.) It was approved.

Now, once there is an amendment to letter (c) of Art. 2, a vote shall be taken on this article, the amendment being reserved.

Mr. JOHN BASSETT MOORE, Delegate for the United States of America:—The delegation for the United States of America, Mr. President, abstains from voting Art. 2, not agreeing upon its wording.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—If the amendment proposed by the delegate for Peru is an addenda, it may be voted upon subsequently, if a modification of the text of the article, then it cannot be voted upon, because the opinion of the Special Committee being approved along with its project, the amendment is rejected.

THE PRESIDENT:—A nominal vote shall be taken. The delegates approving Art. 2 shall say «Yea» and those rejecting it «Nay». The General Secretary shall proceed to the call.

The call being taken, the result is: «Yeas», Argentine Republic, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Mexico, Panamá, Salvador, Uruguay and Brazil. «Nays», Perú and Venezuela.

THE PRESIDENT:—Art. 2 was approved by 12 votes against 2, the Delegation for the United States having abstained from voting.

Mr. ALBERTO ELMORE, Delegate for Peru:—I voted «Nay» because in this manner the legislations shall be placed in unequal conditions and the article shall be applied in different manners.

THE PRESIDENT:—We shall pass to Art. 3.

THE GENERAL SECRETARY reads:—«If the offense was committed beyond the boundaries of the State calling for the extradition, same shall only be granted if the laws of the country of refuge authorise, under like circumstances, the punishment of the offense when practised beyond its territory.»

THE PRESIDENT:—No one asking the floor, I declare Art. 3 approved. The General Secretary will now read Art. 4.

THE GENERAL SECRETARY reads:—«Extradition shall not be permitted:

(a) when the individual claimed be subject to trial or shall have been tried and acquitted in the State of refuge for the same offense;

(b) when the offense be of a political nature or of a connex nature (except homicide against the chiefs of States), against religion or purely military;

§1. It shall be the privilege of the State of refuge to decide in regard to the political nature of the offense, giving to the refugee the most favourable interpretation of the law.

§2. The acts qualified as anarchical by the laws of both States shall not be considered political.

§3. The delivery of deserters from the sea or land forces shall be optional, it not being allowed, however, to any State to enlist among its armed forces—army, navy or police—the deserters from other States.»

THE PRESIDENT:—If no one wishes to speak in regard to Art. 4, I declare it approved. The General Secretary will proceed to read Art. 5.



THE GENERAL SECRETARY:—«The nationality of the refugee shall never be an obstacle to extradition; but no State shall be obliged to deliver its own citizens unless citizenship shall have been acquired after the fact on which the arbitration is based.

Sole Paragraph.—The State refusing to deliver its citizen shall be under obligation to try and judge him within its territory, in accordance with its law and with the elements of conviction that shall be furnished for the purpose by the accusing State.»

THE PRESIDENT:—No one desiring to speak in regard to Art. 5, I consider it approved. The General Secretary will proceed to read Art. 6.

THE GENERAL SECRETARY reads:—«The delivery of the refugee shall be suspended as long as, through other motives, he may be subject to penal procedure of the State of refuge, without this circumstance, however, being an obstacle to the process of extradition.»

THE PRESIDENT:—No one desiring to speak in regard to Art. 6, I consider it as approved. The General Secretary will proceed to read Art. 7.

THE GENERAL SECRETARY reads:—«The civil obligations contracted by the refugee in the State of refuge shall not be an obstacle to his delivery.»

THE PRESIDENT:—If no one wishes to speak in regard to Art. 7, I consider it as approved. The General Secretary will proceed to read Art. 8.

THE GENERAL SECRETARY reads:—«If the penalty to which the refugee is subject be capital punishment, the State of refuge, before his surrender, can require that same be commuted to the one immediately inferior.»

THE PRESIDENT:—No one desiring to speak in regard to Art. 8, I consider it approved against the vote of the Delegation for the United States of America. Art. 9 will now be read.

THE GENERAL SECRETARY reads:—«Once the extradition is granted, the State claiming same shall not be at liberty to try the offender for any but the offence which was the cause of his surrender, except if the State of refuge shall have previously consented to his trial for other offenses or if the case be of a common offense based on the same proofs as the demand for extradition.»



THE PRESIDENT:—No one wishing to speak in regard to Art. 9, I consider it approved. Art. 10 will now be read.

THE GENERAL SECRETARY reads:—«The dispositions of the preceding article shall not subsist if the extradited party from his free and expressed will consents to his being tried for another fact or, on being set free, remains in the territory of trial for a period of more than one month, nor in the case of offense posterior to the extradition.»

THE PRESIDENT:—Article 10 is under discussion.

Mr. ALBERTO ELMORE, Delegate for Peru:—I understand that the concession of freedom mentioned in this article is unconditional and not freedom under bond or security that may be granted by criminal courts. It must be unconditional freedom. I also am of opinion that the date opsterior to the extradition involves an ambiguity.

The extradition embraces different acts: the demand for extradition, the concession thereof and the execution, in such a manner that it would be convenient to point out which date is meant: that the concession of extradition or that of execution?

THE PRESIDENT:—Is it your desire to establish a time limit for the demand or for the concession?

Mr. ALBERTO ELMORE, Delegate for Peru:—I believe that the idea is the date of concession. My purpose is to fix a date in order that it may not be indefinite.

THE PRESIDENT:—As the author of the project, I beg the Conference to grant me permission to explain my thought. The article, in this last part, refers to cases of transgressions.

Mr. ALBERTO ELMORE, Delegate for Peru:—I see no inconvenience, Mr. President, if it be stated that it is the date of delivery.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—I believe it to be useless, as this article continues the preceding one, which says «Once the extradition is obtained.»

THE PRESIDENT:—Your Excellency is right. Article 10 does not lend itself to confusion as it continues Art. 9, so much so that the Committee in wording it expressed itself thus: «The dispositions of the preceding article shall not subsist if the hypothesis of the extradition is understood, hence it seems to me that the amendment of the delegate for Peru has no *raison d'être*».

Mr. ALBERTO ELMORE, Delegate for Peru:—In this case I shall withdraw the portion thereof relating to the date of extradition, maintaining, however, that which refers to the freedom which must be unconditional and not provisory.

THE PRESIDENT:—Article 10 disposes as follows: «The dispositions of the preceding article shall not subsist if the extradition party, from his free and expressed will consents to his being tried for another fact, or, on being set free» and the Delegate for Peru proposes that to the words «set free» be added the word «unconditionally», to avoid the case where the individual is placed in freedom under bond.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—I notice that the text may lend itself to some inconvenience as it says: «The dispositions of the preceding article shall not subsist if the extradited party from his free and expressed will, consents to his being tried for another fact.» Can this not lend itself to abuses?

It might be added here that it is the accused that determines the jurisdiction of the country by his consent.

I understand that the meaning is that extradition having been asked for a given reason, and the culprit being in the country claiming him, the hypothesis is set that the culprit himself may then consent to be tried for an act for which extradition had not been solicited, that is, for a previous offense; in such a manner that the jurisdiction of the State claiming him and already holding him in its power, is dependent upon the will of this culprit to try him for said previous offense.

I believe, Mr. President, that this disposition should be suppressed; the accused must be delivered over to be tried for the offense for which extradition is asked and for no preceding fact.

THE PRESIDENT:—Your Excellency has not well understood the purpose of the project. The project has the extradition granted for the crime on which the claiming nation bases itself to demand the delivery of the criminal, but, if this criminal committed other offenses in other States, he can from his free and expressed will consent to be tried for one of these crimes. In any case, however, the first demand for extradition shall be sufficient, it not being necessary for each of these States to ask for it.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—I shall suggest a hypothesis, Mr. President. Let the delegates imagine the existence of a crime or misdemeanor prior to the one for which extradition is asked, an old offense, and that after the extradition is granted and the accused reaches the place where he is to be tried, he is offered the alternative of accepting trial for the prior offense.

THE PRESIDENT:—It seems to me that the case is perfectly clear: the extradition is granted, according to the terms

of this article, and in virtue of this disposition, the accused person from his free and expressed will, consents to be tried for another fact, for a prior offense, there being no need to specify what this offense may be.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—But the case may occur that the accused party is claimed for a certain offense and after his arrival in the country claiming him is judged for another offense in spite of its being declared here that this depends on his will.

THE PRESIDENT:—It seems to me that the hypothesis is perfectly clear. This depends on the manner of the proceeding of the accused person or of the State claiming him.

Article 19, already approved, solves the difficulty perfectly, as it states that, once the extradition is obtained, the claiming State cannot make the culprit responsible for any fact besides that on which his delivery was based, except if the State of refuge shall have previously consented to his trial for such previous offense. Hence, if the claiming State suspects that the delinquent has committed a previous offense, it can, at the moment of asking for his extradition, obtain the consent of the State of refuge to try him for other crimes in addition to the one constituting the special basis of the demand for extradition.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—But the article that follows excludes the explanation of the preceding one.

THE PRESIDENT:—But that which follows is a continuation of that one that precedes.

Mr. PEDRO M. ARCAA, Delegate for Venezuela:—In this case the phrase, I mean, the hypothesis might be suppressed.

THE PRESIDENT:—We have therefore two amendments proposed: one by the Delegate for Peru, stating that the freedom should be unconditional; another from the Delegate for Venezuela suppressing this part.

In accordance with the motion made by Mr. Quirno Costa, which has already been approved, we shall proceed to vote on the text of the Committee. If this be rejected, the amendments proposed shall be taken into consideration.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—The delegate for Peru is right when he proposes that the freedom in question should be defined. We went about establishing a ruling that the culprit should only be tried for the offense for which he was extradited, an exception being made only when, after his being absolved, he should remain one month in freedom, in the territory of the State that had claimed him and during



this time committed another offense. But, if the liberty granted to him, instead of being absolute, is conditional, as defined by the Delegate for Peru, is a freedom under bond or provisory; if the person tried commit an offense posterior to the request for extradition, he cannot be held for this offense, for it was not on this ground that the extradition was granted. From this viewpoint I believe the delegate for Peru is right when he asks that the kind of freedom to which the article refers be specified.

Is it freedom arising from the declaration of «not guilty» of the offense? If it is and he remain for more than a month within the territory where he was taken to be judged, then yes; but, if it is not this absolute freedom of the accused person which is meant, but a provisory freedom or one under bond, then his permanence is obligatory for over a month, until the action is ended. If during this time he commit an offense, he must not be judged therefor in the country that asked for extradition.

On the other hand, the other modification presented, which stipulates that he cannot be tried when, voluntarily, he so desires, cannot meet with my approval.

THE PRESIDENT:—If no one else wishes to make remarks on this article, I shall submit it to votes, the amendments being reserved.

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—Mr. President, it seems to me that the Delegate for Peru is perfectly right in the observation that he has worded, but I also am of opinion that the article is well worded and that it includes what his Excellency proposes when it states: «Or on being set free remains in the territory of trial for a period of more than one month.» Once it is said that «he remains in the territory of the State», it is understood that he is entirely free. The one enjoying freedom under bond does not remain, he is kept.

I do not know, Mr. President, the interpretation given to the article. I give it the one apparent from my explanation, for in the contrary case the phrase we discuss would have no reason to exist.

THE PRESIDENT:—I shall submit to vote Art. 10, the amendments being reserved. The General Secretary shall proceed to make a call.

The call is made with the following result: «Ayes», the delegations for the United States of America, Argentine, Chile, Colombia, Costa Rica, Cuba, Guatemala, Mexico, Panamá, Paraguay, Perú, Sauvalor and Brazil. «Nay», Venezuela.



THE PRESIDENT:—The article was approved. I shall now submit to votes the amendment of the delegate for Peru. The General Secretary will make a call.

The call is made with the following result: «Ayes», United States of America, Argentine, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Mexico, Panamá, Paraguay, Perú, Salvador, Uruguay and Venezuela. »Nays», Brazil.

THE PRESIDENT:—The amendment of the Delegate for Peru was approved, to the effect that the word «unconditionally» be added. We shall now vote upon the amendment of the Delegate for Venezuela. The General Secretary will make a call.

The call is made with the following result: «Nays», the delegations for Argentine, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Perú, Uruguay, and Brazil. «Ayes», United States of America and Venezuela.

THE PRESIDENT:—The amendment of the Delegate for Venezuela was rejected. We shall now pass to Art. 11.

THE GENERAL SECRETARY reads:—«The claiming State shall not, without the consent of the State of refuge, deliver the extradited person to a third State claiming him, unless it be with the restrictions of the preceding article.»

THE PRESIDENT:—If no one wishes to speak, I declare the article approved. We shall pass to Art. 12.

THE GENERAL SECRETARY reads:—«If various States should ask for the extradition of the same individual for the same fact, preference shall be given to the one within whose territory the offense was committed; if it be for different facts, the preference shall be given to the State where the most serious offense, in the opinion of the State of refuge, shall have been committed, or, the offenses being of equal gravity, to the State first requesting the extradition. If all the requests were presented on the same day, the one of the State of birth of the person to be extradited shall be preferred; if the State of birth be not among the claimants, the State of refuge shall determine the order to be followed. In all the hypotheses of this article, save the first, the re-extradition of the individual can be stipulated for his ulterior delivery to the other petitioning States.»

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—Inadvertently, Mr. President, I remained silent when the discussion of this article was announced, as I have a remark to make thereon. I would ask the suppression of the part that

says that «if all the demands were presented on the same day, the one of the State of birth of the person to be extradited shall be preferred.» I propose, therefore, that the Government from which extradition is asked be free, as in other matters, to choose to whom to make the delivery in order to avoid friction in regard to the questions of nationality and domicile.

THE PRESIDENT:—The Delegate for the Argentine Republic proposes that the second part of the article, reading «If all the demands were presented on the same day, the one of the State of birth of the person to be extradited shall be preferred», be suppressed. I beg leave to observe that this disposition has nothing in common with the debated question of nationality, as the government of the nationality of the culprit is entirely foreign to the nature of the extradition.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—I accept with the greatest pleasure the explanations given by your Excellency; but it seems to me that from the reading of this very article a preference for the State of birth is apparent, as it reads: «If all the requests were presented on the same day, the one of the State of birth of the person to be extradited shall be preferred; if the State of birth were not among the claimants, the State of refuge shall determine the order to be followed.»

A preference is therefore given to the State of birth. This no one can fail to see, and however much it may be the intention of the Brazilian legislator to avoid all discussion in this regard, such discussion may arise in the future.

It would be better in a treaty of extradition where we all try to agree not to offer even a margin to establish a preference.

Hence, the suppression of this part of the article would not be equivalent to or imply preference, once each government were left free to effect the surrender as it deemed best.

THE PRESIDENT:—There exists in fact in this article a preference for the State of birth; but your Excellency would be right if the preference were against the State of residence, which is not the case.

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—But there is a preference in favor of the State of birth, which is undeniable and your Excellency confesses, although there has not been on your Excellency's part any intention to promote here any controversy in regard to residence or nationality.

THE PRESIDENT:—These explanations having been given, I shall submit the article to the vote of the Conference, the amendment proposed by Mr. Quirno Costa being reserved.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—I thank your Excellency for the explanations. The article might be voted in parts.

THE PRESIDENT:—The article is going to be voted on, your Excellency's amendment being reserved. The General Secretary shall make the call.

A call is made and results: «Yeas», Argentine, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Mexico, Panamá, Paraguay, Perú, Salvador, Uruguay, Venezuela and Brazil. «Nays», the United States of America.

THE PRESIDENT:—The article was approved against the vote of the delegation for the United States of America.

I shall now submit the amendment to vote. The Secretary shall make the call.

This results: «Yeas», United States, Argentine, Chile, Colombia, Costa Rica, Cuba, Ecuador, Uruguay and Venezuela. «Nays», Guatemala, Mexico, Panamá, Paraguay, Perú, Salvador and Brazil.)

THE PRESIDENT:—Nine delegations voted in favour of the adjourned and, in, as a last recourse, that we leave this question states that:—

«In order that a resolution be considered as approved, it must obtain the absolute majority of votes of the delegations represented at the meeting at which the vote is taken. The delegation that shall have sent to the General Secretary a declaration of vote shall be considered present. For the approval of projects to form a part of the Codes two-thirds of the votes of the delegations present shall be required.»

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—It does not seem to me, Mr. President, that this case falls under the regulations to which your Excellency refers, as we should need the two-thirds majority only if the article had not been approved. This was the understanding by which we voted the article, the amendment being reserved. Without this reserve of the amendment, the article might have been rejected. The point now at issue is not that to which the regulations refer in exacting a two-thirds vote, and only an amendment



that was passed, as we have passed many of the articles approved. I consider this evident.

Mr. MATIAS ALONSO CRIADO, Delegate for Equador:—Mr. President, in view of the difficulty that has arisen, or that is based principally on the difference in the manner of considering the subject adopted at Montevideo, which obtains in Uruguay, Argentine, Paraguay, Bolivia, and Peru and that adopted a year ago in the Congress at Caracas, in treaties signed by Venezuela, Columbia, Equador, Peru and Bolivia, I beg leave to move with a view to harmonize ideas and to combine those that each of the learned members of this assembly may have, that we suspend the meeting and that in the following the discussion of Art. 12 may be continued.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—In addition to the motion of the Delegate for Equador, I propose that we postpone the discussion on Art. 12, the Conference continuing that of the other articles.

THE PRESIDENT:—The Delegate for Ecuador proposes that the vote and discussion on Art. 12 and following be postponed, the meeting being adjourned, and the work resumed at the next meeting. To this motion the Delegate for Mexico adds another, by which he proposes that the discussion of Art. 12 be adjourned, the Conference continuing, notwithstanding the discussion and vote of the remaining articles.

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—The motion framed by the delegate that has just spoken implies a reconsideration of the subject, because his Excellency supposes that there is a doubt cast on the vote; but, as was declared by the President, in virtue of the interpretation given to the regulations, this point is already settled.

The suppression proposed was voted upon and approved by the majority. Hence it is a case disposed of. To resume the discussion of Art. 12, it would be necessary to request its reconsideration. The President has acknowledged that the question is settled and I do not know why we should defer it.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—I would be very grateful to my colleagues if they would approve the proposal made by the Delegate for Ecuador, as the meeting being adjourned to resume the work at the next, I would have time to study perfectly the project that I have only been able to read now. In addition, if the discussion of this article only were suspended, continuing that of the others, we could not discover if some other has a bearing with the one adjourned. The best would be, therefore, to adjourn the meeting without considering anything approved in regard to Art. 12.



THE PRESIDENT:—We therefore have three motions to vote upon: that of the Delegate for Ecuador that has in view the adjournment of the meeting, the discussion of Art. 12 and following being postponed; that of the Delegate for Mexico to suspend only the discussion of Art. 12, the Conference continuing the discussion of the others, and that of the Delegate for Venezuela, who, alleging that he does not know well the wording of the project, seconds the motion of the Delegate for Ecuador, adding thereto that Art. 12 be considered as not approved.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—I ask the floor for an explanation.

The end I had in view on making the addition to the motion of Mr. Alonso Criado was only to avoid that the meeting be adjourned, reserving the incident that arose in regard to Art. 12, without my having declared myself for or against the discussion or vote, for, in my opinion, there is no need for a new discussion or vote.

In accordance with the articles of the regulations, Mr. Quirno Costa's motion disappeared and disappeared because a two-thirds vote is necessary for the approval of a motion. If there were abstentions, lack or absence, then the voting would be postponed till the next meeting. As only one or two delegations are missing, were their votes added to those cast in favor of the amendment, the total could not go beyond 11, and these 11 would by no means constitute the two-thirds required for the approval of the amendment; a second vote being therefore useless, as, in my opinion, the amendment must be considered rejected.

My proposal as made against that of Mr. Matias Alonso Criado, reduces itself simply to propose that the meeting be not adjourned and, in, as a last recourse, that we leave this question of Art. 12 for another occasion, in accordance with the principles of the regulations.

I agree with both Mr. Quirno Costa and the President, in understanding that this article must not be submitted again to discussion, all the more so as it has been perfectly understood by all the delegates to whom I have the honour of addressing myself.

THE PRESIDENT:—To throw more light on the subject, I shall proceed to read again Art. 6, which is perfectly applicable to this case:—

«In order that a resolution be considered as approved, it must obtain the absolute majority of votes of the delegations represented at the meeting at which the vote is taken. The delegation that shall have sent to the General

Secretary a declaration of vote shall be considered present. For the approval of projects to form a part of the Codes, two-thirds of the votes of the delegations present shall be required.»

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—The dispositions of the regulations seem to me very clear, Mr. President. They call for a two-thirds vote on all projects that must pass to the Fourth Pan-American Congress, but for the modifications that may be inserted in the project, as in the present case, only the absolute majority is required.

THE PRESIDENT:—It seems to me that in view of the difference of opinion, the Conference is the most competent to interpret the articles of its regulations. In this case, I shall consult the Conference in regard to the manner in which this disposition must be understood, that is, if the two-thirds are necessary only for the votes on projects, or if also for the amendments modifying these.

Mr. ALEJANDRO ALVAREZ, Delegate for Chili: — I understand, Mr. President, that the opinion of the Conference is that, just stated by me, that is, that a two-thirds vote is necessary only for the projects, and not for details or amendments. To proceed differently would be to create difficulties without any practical result.

THE PRESIDENT:—I shall consult the Conference on the following point: the second part of the article reads as follows: «For the approval of projects to form a part of the Codes, two-thirds of the votes of the delegations present shall be required.»

Mr. Victor Manuel Castillo understands that this disposition is applicable not only to the projects but to the amendments destined to modify them; Mr. Alejandro Alvarez, however, understands that it is only applicable to the projects and that, in regard to amendments, the absolute majority is sufficient for them to be considered as approved.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—If the two-thirds rule should obtain in regard to this amendment, all that we have done so far would be annulled, because the modifications introduced into the project under discussion have been, more or less, in the same sense as this. We should thus have lost all the work accomplished at this meeting.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:— In view of the authentic interpretation given by the author of the regulations to the article provoking the discussion, I believe, Mr. President, that if it only refers to the projects and not to

the articles, the amendment presented by Mr. Quirno Costa is approved, and there is no need to prolong the incident that, on the other hand, has a serious importance.

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—With my colleague's permission I may state that I am not the only author of the regulations.

Mr. CANDIDO DE OLIVEIRA, Delegate for Brazil:—I believe, Mr. President, that the disposition of the regulations must extend itself to the amendments, especially to the one under debate that completely alters the dominant thought of the project under discussion. I therefore vote in this sense.

THE PRESIDENT:—I understand that the disposition which I have read to the Conference refers only to the project, as Mr. Alejandro Alvarez has it; but I find myself in the same situation as shortly ago, not knowing which method shall be finally adopted by the Conference.

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—However respectable be the opinion of the special committee which undertook to prepare the regulations, I believe that to solve the difficulty, Mr. President, your Excellency should submit the interpretation to be given to Art. 6 of the regulations to the Conference, as that given by the delegates that prepared them may be different from that of those who voted them.

THE PRESIDENT:—I shall consult the Conference on the interpretation and scope of Art. 6 of the regulations.

Let those who understand that the disposition of the regulations apply only to the project say «project», and those that understand that it applies also to the amendments say «amendments.»

Mr. JOHN BASSETT MOORE, Delegate for the United States of America:—I find it difficult, Mr. President, to vote in this manner.

THE PRESIDENT:—As the Delegate for the United States finds it difficult to vote in the manner proposed, I shall modify the terms of the question.

As there is no doubt that the regulations apply to the projects, let the delegates who understand that the disposition also applies to the amendments say «Yea», and those that understand that it is restricted to the projects say «Nay.»

Mr. CECILIO BAEZ, Delegate for Paraguay:—As it is necessary to vote on the point put under discussion, I ask permission to say a few words to explain my vote.

This session of the Conference of Jurists must not be assimilated to the Legislative Body of any country that adopts the principle of the simple majority to oblige its inhabitants to



accept and obey a law. Another criterium obtains in this assembly: in order to give to the projects that emanate therefrom the greatest prestige, it is desired to always obtain the votes of two-thirds of the delegates present.

At this moment, however, there arises a question as to the approval of an amendment, and, as the regulations are deficient, there is a doubt as to whether, to be considered approved, it must obtain a two-thirds vote or only a majority.

Starting from the principle that all the agreements reached by this assembly requires two-thirds of the votes, it is clear that the Conference being divided in the proportion of 9 to 7, in this particular case, there was no approval either of Mr. Quirno Costa's amendment or of the opinion of those that voted against it, as neither could obtain the two-thirds vote. This part of the article was therefore annulled and is again under debate.

The article as a whole obtained the two-thirds, but the question now is to modify it, which is equivalent to saying that we shall again consult on this point the opinion of the Conference.

This article, fortunately, does not evolve a question of principles, because, were such the case, there would be an absolute need of two-thirds of the votes; but although it consists of a simple modification, the doubt remains as to how to solve the difficulty.

The regulations do not solve the question; hence it seems to me that the discussion must tend not to a proposal to interpret the regulations, but to their extension to the cases in which there is a doubt as to the approval of amendments to the projects presented, in order to know whether it requires the two-thirds of the votes or a simple majority.

I believe that the first alternative is the best, because we start from the principle that the agreements of this assembly must obtain two-thirds of the votes of the delegates present. Owing to this circumstance, Mr. President, I anticipate my opinion on this particular point. That is that I shall vote in the sense that two-thirds of the votes be required for any amendment, not because this particular case has any importance, but in the provision of some instance where an amendment may involve questions of principles, and to solve such questions the regulations necessarily require two-thirds of the votes.

Mr. ALONSO REYES GUERRA, Delegate for Salvador:— I believe, Mr. President, that we should not make a confusion between what constitutes a project and what is only a detail thereof.

The project on extradition was accepted from the moment the Conference consented to its being discussed by chapters.



What we are now endeavouring to do is to harmonise the details of this project. The general principle, wherein lies the project, was already accepted.

It is for the approval of the project that the regulations require two-thirds of the votes, but, for its wording, for its harmonization, for its discussion by chapters, the majority of votes is sufficient, since these are resolutions on details—the principle is general, and does not reside, it may be said, in each article of the project in particular but in the project in general.

I would therefore propose that the Conference be consulted simply as to whether the modification proposed by the delegate by a majority of votes. According to my understanding, it is for the Argentine Republic, Mr. Quirno Costa, is or not approved, although I voted against it, owing to the fact that the legislation of my country gives such a preference to the nationality that it goes to the extent, in its constitution, of prohibiting the delivery of its citizens by birth.

I accepted the articles of the project because in this disposition is respected, giving as it does to the states the freedom not to deliver their born citizens; in such a manner that on voting against Mr. Quirno Costa's amendment, I did so precisely in consideration of the legislation of my country, that establishes always a preference for its born citizens. This does not prevent me, however, to recognize that, in accordance with the regulations, Mr. Quirno Costa's amendment was approved. It seems to me that all difficulties would be avoided by simply consulting the Conference as to whether or not the amendment of the Delegate for the Argentine Republic was approved.

Mr. ALEJANDRO ALVAREZ, Delegate for Chile:—I would like to give a short answer to the Delegate for Paraguay.

The point at issue is not to know if a project was definitely approved, to be submitted by ratification by the different states, but only whether it should or not be submitted to the Pan-American Congress at its next meeting. The question at issue is not of a project that is going to be subscribed to, but only to ascertain the degree of approval or acceptance that it received in this assembly.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—I wish to offer, Mr. President, a simple explanation in regard to what has been said by the Delegate for Paraguay.

If the two-thirds votation applied, as is stated by Mr. Baez, to the details of the project, the result would be the same, as that which it is desired to suppress would be suppressed, once it would require two-thirds of the votes to subsist. In this regard

I have the pleasure to declare that the project for a Code presented by the illustrious member that presides over our debates, Mr. Epitacio Pessoa, is perfectly in accordance with my ideas, although it makes no reference absolutely to the State of birth, keeping thereon a discreet silence and leaving to the state solicited the option to proceed as it may judge best.

It seems to me that what should be put to votes is only what was suggested by the delegate who has just spoken: if the amendment presented by me was or was not approved.

Mr. CECILIO BAEZ, Delegate for Paraguay:—Mr. President, I propose as a preliminary that the Conference suspend its meeting for a quarter of an hour in order that the delegates may exchange ideas on the subject.

Mr. ALONSO REYES GUERRA, Delegate for Salvador:—I believe, Mr. President, that there is a preceding proposal, that is, «to inquire whether or not the amendment presented by the Delegate for the Argentine Republic, Mr. Quirno Costa, was or was not approved.»

THE PRESIDENT:—If your Excellency will allow me, I shall submit to a vote in the first place the proposal of the Delegate for Paraguay as to the interruption of the meeting for 15 minutes. (Pause.)

Let the delegates who approve the motion of the Delegate for Paraguay remain seated. (Pause.) It was approved.

THE PRESIDENT:—The meeting is resumed.

The meeting is suspended at 4.10 p. m.

The meeting is again resumed at 4.25 p. m.

Mr. CECILIO BAEZ, Delegate for Paraguay:—Ideas have been exchanged among the delegates to the Conference, it was arranged that I should request your Excellency to again submit the motion presented by Mr. Quirno Costa to a vote.

The regulations do not oppose another vote being taken on an amendment already voted upon.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—The consultation would be worded thus: whether the amendment presented by me was or was not approved.

THE PRESIDENT:—The Delegate for Paraguay proposes that another vote be taken on the amendment proposed by Mr. Quirno Costa, Delegate for the Argentine Republic.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—I second, Mr. President, the motion just made by the Delegate for Paraguay to take a new vote on the amendment of Mr. Quirno

Costa, as a conciliatory means of ending the question that arose in regard to nationality or domicile.

The Delegate for Ecuador at the beginning argued that this might seem in contradiction with what was approved by the Bolivian Congress; and although this does not seem to me to be so, withal, to avoid doubts, I have thought of a third formula, saying that: «The State from which extradition is solicited shall resolve as it deem best, except if other stipulations exist between it and the petitioning State», and thus everything would be harmonised. But for this it is necessary that Mr. Quirno Costa's amendment be again submitted to discussion, in order to give the opportunity to make this addendum, that, in my belief, shall obtain the votes of the majority, as such states as did not assist to the Bolivian Congress are not bound by these treaties. In such a manner all can be resolved by proceeding as was indicated by the Delegate for Paraguay.

Mr. CECILIO BAEZ, Delegate for Paraguay:—I regret not to be able to agree to the proposal just made by the Delegate for Venezuela, as it would imply a new discussion of the question of whether the regulations of this assembly can be modified by a simple motion or order. It is the practice of all parliaments that the modification of regulations should be made by a written proposal, copies of which are distributed to its members for study. Thus it is that I am forced to oppose in this regard the proposal of the Delegate for Venezuela. It would be very agreeable to me to meet a proposal made by Mr. Pedro de Arcaya; but, in this case, I am deprived of that pleasure as his proposal involves a question of principles.

THE PRESIDENT: — As a means of ending the incident, I shall submit to votes the motions in the order in which they were proposed. The first was that of Mr. Cecilio Baez, asking that Mr. Quirno Costa's amendment be again submitted to a vote. Let the members that approve it remain seated. (Pause.) It was approved.

In view of the approval of this motion, I shall again submit to votes Mr. Quirno Costa's amendment. The General Secretary will proceed to make a call.

A call is made answering «yea» the delegations for: United States of America, Argentine Republic, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Mexico, Panamá, Paraguay, Perú, Salvador, Venezuela and Uruguay and «nay» Brazil.

THE PRESIDENT:—Mr. Quirno Costa's amendment was approved against the vote of Brazil.



Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—Now that the suppression I proposed has been accepted by the Conference, the project is now integral and, in this article, identical to that presented by Mr. Epitacio Pessoa in its Article No. 295. I suggest therefore that Article 12 of this project be substituted by Art. 295 of the Brazilian project.

Mr. PEDRO M. ARCAÑA, Delegate for Venezuela:—I understand, Mr. President, that the suggestion of Mr. Quirno Costa is in the sense that Art. 12 of the project we are now discussing be replaced by Art. 295 of the project prepared by your Excellency. In this case I would propose an addition so worded: «Except the stipulations contained in special treaties in existence between the petitioned and petitioning States.»

It is true that as the President has remarked, Art. 24 states that the existing treaties that do not conflict with the principles established in the preceding articles remain in force; but in the manner I suggest all doubts would be avoided in regard to Mr. Quirno Costa's amendment. The text would then become perfectly clear and this would not influence the substance of the project.

Mr. ROBERTO ANCIZAR, Delegate for Columbia:—The amendment of the Delegate for Venezuela fills indeed a need; but I do not think this is the opportune moment to make this addition, that moment will come when we shall discuss the final article which says: «The existing treaties remain in force in so far as they do not conflict with the above principles, the States being at liberty to effect new agreements that do not involve violations or restrictions of the said principles.»

This places us, representatives of Venezuela, Columbia, Ecuador, Peru and Bolivia, in a conflict.

It is not yet a year ago that we signed an extradition treaty, that of July 18th, 1911, which contains differences, some of them fundamental, with regard to the project we are now studying; but as in the face of the interests of all the republics, the interests of five among them can and should give way, it is beyond doubt that what shall be resolved here shall be what is to rule the relations of all countries. However, as the motive that caused the signing of the treaty of Caracas was one of historical reminiscences, it would be well to take it into consideration in order that these five countries may, in spite of this agreement, continue to be ruled by the one signed by them at Caracas.

As I have said, I would propose to add to the end of Art. 24 this modification: «The treaties or conventions between territories that are continuous or adjoining shall be executed between them», thus endeavouring to harmonise this situation in which



five republics find themselves after having agreed only a year ago in a determined direction.

I would therefore beg the Delegate for Venezuela to withdraw his motion in order that at the end we reach an understanding.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—I would have special pleasure in complying with the suggestion of the Delegate for Columbia, Mr. Roberto Ancizar, did I not believe that this is the opportune moment as the point at issue is a concrete one in regard to which we all agree.

I believe, Mr. President, that your Excellency might submit to a vote the addendum that I have proposed with a view to treat the subject more amply and in order that it is made clear that we, the delegates for the Republics represented in the Bolivian Congress, are not in contradiction with ourselves here.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—But it—This is quite clear once the faculty is left to the governments to deliver criminals to whom they choose.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—But it must not be optional, when special treaties exist.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—It is optional to deliver criminals because that latitude is left to the government.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—But it is well that this point be clearly stated.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—This is the meaning of the article of the project prepared by Mr. Epitacio Pessoa, such as it is. I see no objection in accepting the amendment, although it seems to me that this part is already there implicitly.

THE PRESIDENT:—What Mr. Pedro M. Arcaya proposes is that to the motion of Mr. Quirno Costa be added the following: «Except what is established in the existing treaties between the soliciting and solicited States.»

Mr. Roberto Ancizar, believing that the moment is not opportune and that the amendment belongs to Art. 24, proposes the following to this article: «The existing treaties remain in force in so far as they do not conflict with the above principles, the States being at liberty to effect new agreements that do not involve violations or restrictions of the said principles.»

I shall submit to votes in the first place the motion of Mr. Quirno Costa. The General Secretary shall proceed to the call.

The call being made, all the delegations answer in the  
The meeting ended at 11,25 p. m.

It was unanimously approved. I shall now submit to votes the sub-amendment of the Delegation for Venezuela.

Mr. ROBERTO ANCIZAR, Delegate for Columbia:—In reality, Mr. President, the motion of the Delegate for Venezuela is “*mutatis mutandis*” to that which I was about to make and referred exclusively to the treaties ruling between States that have adjacent territories.

My thesis is the same, the Delegate for Venezuela only making it general and not extensive only to the States that were represented at the Bolivian Congress, whereas I only wished to have it apply to States whose territories were contiguous. Hence I vote in the affirmative, seconding the motion of the Delegate for Venezuela.

Mr. MATIAS ALONSO CRIADO, Delegate for Ecuador:—I shall cast a negative vote, Mr. President, as I understand that the restriction can be inserted in Art. 24.

THE PRESIDENT:—The sub-Amendment of the Delegate for Venezuela is going to be voted on. The Secretary will make the call.

The call is made and the following delegations answer  
 “yea”: Argentine, Chile, Colombia, Cuba, Salvador, Uruguay, and Venezuela and “nay”: United States of America, Ecuador, Guatemala, Mexico, Panamá, Paraguay, Perú and Brazil.

THE PRESIDENT:—The amendment was rejected. Art. 13 will now be read.

THE GENERAL SECRETARY reads:—“Extradition shall be solicited through the intermediary of diplomatic agents, failing these, through consuls, or from government to government direct, the petition being accompanied:

(a) by a copy or affidavit of the condemnatory sentence with proof that the culprit was assigned and represented at his trial or legally declared a defaulter; or there having been no condemnatory sentence by a judicial act emanated from a judge or competent magistrate, formally decreeing or operating *ex-vi* of authority the subjection of the accused party to trial and accompanied by a legalized copy of the penal law applicable to the offence on which the petition is based;

(b) of all data and information necessary to establish the identity of the person whose extradition is asked.

Sole paragraph.—The documents called for under (a) shall be executed in the form required by the legislation

of the petitioning State, and shall contain a clear definition of the incriminated fact and the date and place where it occurred.»

Mr. JUAN ZORRILLA DE SAN MARTIN, Delegate for Uruguay:—The discussion to which we have just assisted in relation to the amendment of my honorable colleague, Mr. Norberto Quirno Costa, makes us understand that this project is destined to form a part of the Code, the drafting of which constitutes the principal mission of this Conference; that we are sanctioning chapters to this Code; that we are, therefore, beginning the execution of the thought that constitutes the primordial task of our assembly; that is, the sanction of partial elements or, members, so to speak, which, once assembled, are to constitute the organic body of the American Code of International Law.

It seems natural on forming an organism, we should tend to have it animated by one spirit. This spirit, in turn, should be inspired, as we have decided, by the manner of thinking and feeling, by the traditions, internal laws, treaties, etc., of all American nations.

This thought, sanctioned in the general project, is not, however, the one we are following. We are sanctioning a portion of the general Code, without having recourse to the means which we have judged necessary not to err, to accomplish a work at once scientific and practical, in the partial work of the different committees.

This idea comes to my mind on perusing Art. 13, now under discussion.

This article says: «Extradition shall be solicited through the intermediary of diplomatic agents, failing these, through consuls, or from government to government direct, the petition being accompanied, etc.», thereby solving one of the questions of International Law to be studied by one of the committees: the capacity and attributions of consular and diplomatic agents.

Can consuls address governments?

Have they, at times, a public capacity?

Can they be, in some cases, considered as diplomatic agents?

The distinguished Brazilian citizen that honors us by presiding over our debates, in his remarkable project that served as a basis for our study, solves this point, but solves it in a manner that may lend itself to different interpretations and that undoubtedly, will be the occasion for him to manifest his science of law, when all the shattered members of the future Code that the committees shall create will come together to be joined by us into an organism.



Mr. Epitacio Pessoa sustains that consuls are simple agents for commercial and industrial interest, or protectors of their co-citizens that act with the expressed or tacit consent of the state where they exercise their functions. According to this general notion given by his Excellency of consuls, these have absolutely no representative capacity. The Chief of the State where they exercise their functions does not know them; and thy cannot, therefore, address him directly, neither in the case of extradition nor in the absence of the Minister.

But in Art. 83, for example, Mr. Epitacio Pessoa attributes to the consul, and, in his absence, to the master of a ship, the right to ask for the capture of deserters. The capacity for addressing the chief of the State in this case extends to the master of a ship.

Art. 162 states that it in no case may the consul address the Chief of the State, except in the absence of the Minister.

There again the consul has a public capacity in the absence of the minister. «In this case the consul,» in the words of the project, «can only practise the diplomatic acts that in such cases the government of the State where the consulate is located is in the habit of permitting.»

Here we have to rule the customs of the State where the consulate is located.

In the project, of which we are studying one of the members, the consul has certain privileges and immunities, etc., but on the other hand the right to give asylum is strictly denied to him.

I mention all this, Mr. President, not because I pretend to evolve before my eminent colleagues—every one of whom could be my master in the science of law—a doctrine or system of International Law, but only because I wish to place it on record that if the Delegation for Uruguay adhered to this project on extradition through the medium of one of its delegates who formed part of the committee that worded it and to Article 13 under discussion, this shall not be an obstacle, when the moment comes to study the future Code in International Law in its integrity and to adopt a doctrine on this point, for our reserving our right to express our opinion in all freedom, in case the Special Committee in charge of the question, as it is to be hoped and desired, present a project forming a harmonious whole with the rest of the Code, in which the capacities and attributions of consuls are established, taking into consideration the principles that obtain among, and the traditions and high interests of the American States.

THE PRESIDENT:—The discussion of Art. 13 continues.



Mr. MATIAS ALONSO CRIADO, Delegate for Ecuador:—The committee that reported on this project, worded the article in this very form, without busying itself about giving consuls any extraordinary capacity.

There exists in all countries a contradictory comprehension as to the theory and doctrine developed by the delegate for Uruguay. All countries, in their regulations, inclusive of those ruling in Uruguay, in the absence of diplomats, give to consuls the faculty of acting as intermediaries of the governments of their countries for the requests that these have to make to the State where the consul exercises his functions, without clothing him with any diplomatic faculties or granting him the right to give asylum.

The case has nevertheless occurred, not only in the Oriental Republic of Uruguay, but in other American Republics, that, through the absence of a legation, a deposed president has had the need, at a historical moment, to take asylum in a foreign consulate, this consul being respected and the security of the president obtained.

Nations are miserly toward foreign, and prodigal toward their own consuls.

The committee, of which Mr. Varela, delegate for Uruguay, formed apart, accepted this wording, without prejudice of any principle of doctrine against which the future International Code may resolve as to the capacity of consuls, in relation to the special exceptions for extradition. In all treaties it is established that diplomatic agents be entrusted with this mission, because they are representatives of their governments, whereas the consul is only a commercial agent, one in charge of protecting the persons and interests of his countrymen, obeying always the government's orders.

In all countries the right to present claims is conceded to the diplomatic agent; but, in the absence of such diplomatic agents, there exist representatives, whether commercial or consular agents, that constitute the intermediary organ to communicate with the government of the State where they reside and ask for the arrest of the criminal whose extradition is solicited, without this involving the concession of any diplomatic capacity in relation to this State, without altering the legal status that consular agents possess according to the consular regulations of all the republics of America.

Another circumstance also has its influence, viz., not all the American States can maintain a diplomatic corps with credential to all their sister Republics. The majority have only

consuls, and it is necessary to make use of these for all business interesting the country they represent.

The committee owing to these considerations accepted the article in this shape. I admit the general thesis states by Mr. Zorrilla, in relation to the different status of the consular and diplomatic corps; but in the concrete case of extradition of criminals, in the absence of diplomatic agents, the consuls have the intermediary mission of having executed what their governments order, without making doctrinary distinctions nor anticipating ideas, nor confusing the status of consuls and diplomatic agents, all of which shall be discussed at the proper time.

No motion having been made to the contrary, I ask that the article be approved just as worded by the Committee of which I had the honour to be a member.

THE PRESIDENT:—No other delegate wishing to speak in regard to Art. 13, I consider it approved.

Art. 14 shall now be read.

THE GENERAL SECRETARY:—«In urgent cases the refugee may, even through a telegraphic request, be placed under arrest preventively until the State claiming him can present to the state of refuge, within the delay fixed by the latter and that cannot go beyond two months, the formal petition duly prepared.

Sole paragraph.—The responsibilities decurrent from the preventive imprisonment shall be assumed by the State soliciting same.»

Mr. ALBERTO ELMORE, Delegate for Peru:—The delay of two months seems to me to be too short. The Mexico treaty proposes a delay of three months and that of Montevideo a shorter one, but adding the time necessary to overcome distance.

The delay of two months is too limited, for very often the legal actions are not prepared in the capital of a state but in a province. There is also the need to obtain documents in the province, to remit them to the capital and thereafter to transmit them to the State asking extradition. I would therefore ask that the Conference extend the delay or else grant one proportionate to the distances to be travelled.

THE PRESIDENT:—The delegate for Peru proposes that the delay of two months be increased.

I beg leave to remind his Excellency that the Mexico treaty does not set the delay of six months. I believe the Montevideo treaty in Art. 44 or 45 requires that the request be made within 10 days after the arrival of the first mail. I am also under the impression that no treaty grants a longer delay than the present one.

Mr. ALBERTO ELMORE, Delegate for Peru:—I would call your Excellency's attention to the fact that on many occasions extradition is solicited shortly after the crime has been committed. A bank cashier, for instance, runs away with a heavy sum. The order for his arrest is given immediately; in this case, before the beginning of legal action, already the government solicits extradition. The same thing occurs in other flagrant crimes, in such a way that extradition is solicited when the criminal suit has hardly begun.

THE PRESIDENT:—After voting the article I shall submit your Excellency's motion to the Conference.

If no one else wishes to speak in regard to Art. 14, I shall consider it approved.

Mr. ALBERTO ELMORE, Delegate for Peru:—If your Excellency will allow me, I shall make a slight correction: the Mexico treaty grants a delay of three months.

THE PRESIDENT:—If no one wishes to speak, I shall submit to votes the amendment proposed by the Delegate for Peru. The General Secretary will make the call.

The call being made, it is found that the amendment was rejected, having only obtained the vote of the delegation for Perú in its favor.

THE GENERAL SECRETARY reads:—«When the documents accompanying the petition are considered insufficient or irregular through vices or form, the government of the country of refuge shall return the same in order that omissions be filled or defects corrected, and the individual if in prison, shall continue there until the delay mentioned in the preceding paragraph expires.»

THE PRESIDENT:—If no one wishes to speak I declare Art. 15 approved. Art. 16 will now be read.

THE GENERAL SECRETARY reads:—«The petition for extradition in so far as its formalities, the appreciation of its legitimacy and the admission and qualification of defence presented against same, shall remain dependent, in such questions as are not contrary to the precepts of the present Code, upon the decision of the competent authorities of the State of refuge, in accordance with the legislation thereof.

Sole Paragraph.—The individual claimed shall in all cases have secured to him the right to use the recourse of «habeas-corpus» and also to call for his freedom on bail, once the conditions required therefor in the state of refuge have been fulfilled.»



THE PRESIDENT:—If no one wishes to speak in regard to Art 16—

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—I would like, Mr. President, to solicit from the Conference that I be allowed to add to the Sole Paragraph of this article, after the words «recourse of «habeas-corpus» the following: «or of «amparo.»

In the Mexican Republic there is a special recourse similar to that of «habeas-corpus», but more ample, which is called «amparo de garantias» and that is slightly different from the «habeas-corpus» generally admitted in all the Latin-American Republics.

As this is but an extension of the idea, I would very much thank the Conference of Jurists if it would allow me to add these words: «or of «amparo» to the words «habeas-corpus.»

THE PRESIDENT:—The amendment of the delegate for Mexico is open to discussion.

No one wishing to speak, the General Secretary will take the votes.

The call is made and results in the approval of the amendment of the delegate for Mexico.

THE GENERAL SECRETARY reads:—«Art. 17.—All the objects found in the possession of the refugee or deposited or hidden in the State of refuge shall be seized and delivered with him, or thereafter as well, whether they may have served to commit the punishable action or have been obtained through same and also such as may serve as evidence to convict him.

§1.—The objects shall be delivered even though the extradition be not effected through death or flight of the refugee, once said extradition has been granted. If not, the process shall continue for that special purpose.

§2.—The objects seized when in the possession of third parties, or in the hands of the refugee but belonging to third parties, shall not be delivered without these having a hearing and present such exceptions as they deem proper, and the said objects shall be returned to said third parties if their right thereto be established, without expense, as soon as the process of extradition is ended.»

THE PRESIDENT:—If no one wishes to speak, I shall consider Art. 17 approved. Art. 18 will now be read.

THE GENERAL SECRETARY reads:—«The passage of the extradited party through the territory of a third state shall be



permitted, on the simple presentation, in the original or legalised copy, of the decision granting the extradition, if the motive therefor be punishable in said third State.

§1.—If the extradited person be a citizen of the third State, the granting of the passage shall be discretionary.

§2.—The passage through the third State shall be made under escorts of agents thereof.

THE PRESIDENT:—If no one wishes to speak I shall consider Art. 19 approved. Art. 20 will now be read.

THE GENERAL SECRETARY reads:—«The expenses of the extradition shall be for account of each State within its borders. Those of transportation through intermediary States or by sea shall be for account of the State soliciting the extradition.»

THE PRESIDENT:—If no one wishes to speak I shall consider Art. 20 approved. Art. 21 will now be read.

THE GENERAL SECRETARY reads:—«The State that obtains the extradition of persons or eventually condemned, shall be under the obligation of communicating the final verdict to the State of refuge as given in the trial.»

THE PRESIDENT:—If no one wishes to speak, I shall consider Art. 21 approved. Art. 22 will now be read.

THE GENERAL SECRETARY reads:—«The extradition of individuals guilty of acts of anarchy may always be asked when the legislation of both States punish such acts. In this case the extradition shall be granted even when the penalty established be inferior to two year's imprisonment.»

THE PRESIDENT:—If no one wishes to speak, I shall consider Art. 22 approved. Art. 23 will now be read.

THE GENERAL SECRETARY reads:—«The individual claimed shall be restored to liberty and shall not again be imprisoned if, once the extradition granted, the respective diplomatic or consular agent does not send him to his destination within 20 days counted from the day on which he was placed at the disposal of such agent.»

THE PRESIDENT:—If no one wishes to speak, I shall consider Art. 23 approved. Art. 24 will now be read.

THE GENERAL SECRETARY reads:—«The existing treaties remain in force in so far as they do not conflict with the above principles and the States can effect new agreements provided they do not imply violation or restrictions of said principles.»

Mr. ROBERTO ANCIZAR, Delegate for Colombia:—The opportunity has now come, Mr. President, to withdraw my motion

the present project requires two. In accordance with the article now under discussion the treaty in question could not subsist as it would be in opposition to the limit of the project. I believe there can be no inconvenience in leaving this clause subsisting between the States that put their signature to it, allowing themselves greater facilities for extradition, since this is not antagonistic to the substance of the agreement that be entered into later in accordance with this project.

Thus it is that I propose a wording that shall keep in force the treaties that grant greater facilities for extradition.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—I believe, Mr. President, that if we begin now to introduce the system of modifications in the way of restrictions to this project, we expose ourselves to jeopardize the work that we are preparing, because in the case of a codification we shall all have to give way a little in order to obtain a result.

This project is not final, as it must be submitted to the study of the next Pan-American Congress, where it may be amended by the corresponding committee in charge of this subject, as all of the nations have to be heard in relation to the codification in general. This would be the opportunity to discuss all of these modifications that refer to restrictions. It seems to me that at the present time we are too near the beginning.

We have done this work that is to be submitted to the Pan-American Congress; special committees were named, to which same modifications may be presented, and to these it behoves to attend to all this diversity of legislations of each State.

Hence it seems to me that we should give our work as ended with what we have sanctioned.

THE PRESIDENT:—Your Excellency proposes the suppression of Art. 24?

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—No, Sir. Art. 24 is already approved; but as the Delegate for Peru proposes still another restriction, I was saying that it was best for us not to continue on this path, because our work is not final, it shall still have to go through a previous criticism and the committees appointed to make a study of the codification shall take into consideration all such observations when making the study of the legislation of each State.

THE PRESIDENT:—I would request the Delegate for Peru to hand to the Secretary his motion in writing.

Mr. ALBERTO ELMORE, Delegate for Peru:—I see no inconvenience in doing so.

The following amendment is put on the table:—

for an additional article continuing the one just read, in view of the fact that the one of the Delegate for Venezuela is much more ample than mine from which I desist.

Mr. PEDRO M. ARCAYA, Delegate for Venezuela:—But my amendment was rejected.

Mr. ALBERTO ELMORE, Delegate for Peru:—The wording of this article, Mr. President, does not sufficiently explain the idea of agreement with existing treaties, it seeming to me that the following wording would be more appropriate: «The treaties offering greater facilities for extradition remain in force.»

Let us suppose the existence of a treaty that sets the penalty limit to authorise the extradition at one year's prison, whereas

«The existing treaties remain in force in so far as they do not conflict with the above principles or grant more facilities for extradition, the States being at liberty to effect new agreements with the same end in view.»

Mr. PEDRO MANUEL ARCAYA, Delegate for Venezuela:—I accept the modification with the following sub-amendment: where it says «grant more facilities», let there be added «especially in regard to the offenses that authorize extradition and the preference to be granted, when solicited by different States at the same time, the States can effect new agreements with the same end in view.»

THE PRESIDENT:—Well. To the amendment of the Delegate for Peru, the Delegate for Venezuela offers a sub-amendment.

Mr. PEDRO MANUEL ARCAYA, Delegate for Venezuela:—Yes, Mr. President, because in this manner we also solve the question that brought about the addendum proposed by me to Art. 12.

THE PRESIDENT:—We shall now vote in parts. I shall first submit to votes the amendment prooosed by the Delegate for Peru, that modifies the wording of the article. The General Secretary will take the votes.

A call is made and the amendment approved.

Now we shall vote on the sub-amendment of the Delegate for Venezuela, the sense of which is already known to the delegates. The General Secretary will take the votes.

A call is made to which answer «yea» the delegations for Argentiné, Chile, Colombia, Costa Rica, Cuba, Ecuador,



Guatemala, Perú, Salvador and Venezuela; and «nay» those of North America, Panamá, Mexico, Paraguay, Uruguay and Brazil.

THE PRESIDENT:—The sub-amendment was approved.

I must communicate to the delegates that Messrs. Carlos Rodriguez Larreta and José Pedro Varela, who formed part of the Committee appointed to draft the project that has just been approved, having been forced to absent themselves owing to urgent motives, said committee is now incomplete, and as different amendments have been introduced into the project, modifying its primitive terms and requiring a final wording if the Conference agree thereto, I shall proceed to appoint two other delegates as members in order to complete same.

Mr. ALBERTO ELMORE, Delegate for Peru:—It seems that as this is a work of mere wording, the three remaining members are sufficient to complete it, and that the appointment of two other delegates to substitute the absent ones can be dispensed with.

THE PRESIDENT:—Just so, but I thought it to be my duty to bring the facts to the knowledge of the Conference.

Mr. ALBERTO ELMORE, Delegate for Peru:—Very well. Then I withdraw my indication.

Mr. QUIRNO COSTA, Delegate for the Argentine Republic:—I believe that the majority of the Committee still remains therein. These might remain together with the General Secretary.

THE PRESIDENT:—If the Conference agrees, this will be done.

General asent.

Mr. PEDRO MANUEL ARCAYA, Delegate for Venezuela:—I desire, Mr. President, to have it recorded that, in reference to Art. 2, letter (c), in regard to which I presented an amendment that was rejected, in due time I shall present an exposition of my vote in regard thereto.

THE PRESIDENT:—There being no further business to transact, I shall adjourn the meeting, but bring to the knowledge of the Conference that Wednesday, 16th inst., at one p.m., it is convenient to hold our meeting, instead of on the 15th, as had been decided, as to-day's meeting was a very laborious one and it is necessary to give the Secretary time to prepare the minutes.

General asent.

The meeting ended at 6 p. m.



## 5th. ORDINARY MEETING

JULY 16th. 1912

At 2-50 p.m., the following delegates being present, to wit: Mr. Eptacio Pessoa, for Brazil; Mr. John Bassett Moore and Mr. Frederick van Dyne, for the United States of America; Mr. Norberto Quirno Costa, for the Argentine Republic; Mr. Victor Sanjines, for Bolivia; Mr. Miguel Chuchaga Tocornal and Mr. Alejandro Alvarez, for Chile; Mr. José Maria Uricoechea, for Colombia; Mr. Alekandro Alvarez, for Costa Rica; Mr. Aniceto Valdivia, for Cuba; Mr. Alejandro Alvarez and Mr. Matias Alonso Criado, for Ecuador; Mr. Antonio Batres Jauregui and José Matos, for Guatemala; Mr. Victor Manoel Castillo, for Mexico; Mr. Cecilio Baez, for Paraguay; Mr. Alberto Elmore, and Hernan Velarde, for Peru; Mr. Alonso Guerra, for Salvador; Mr. Juan Zorrilla de San Martin, for Uruguay; Mr. Pedro Manoel Arcaya, for Venezuela; Mr. Candido Luiz Maria de Oliveira, for Brazil; the meeting is declared open.

The minutes of the preceding meeting are read and approved without remarks.

Mr. HERNAN VELARDE, Delegate for Peru:—Mr. President, the committee appointed by you to deposit a wreath, in the name of the International Conference of Jurists, on the tomb of the eminent Brazilian who was Quintino Bocayuva, has accomplished its mission.

THE PRESIDENT:—We shall now proceed to read the order of the day.

THE GENERAL SECRETARY reads the following:

«Rio de Janeiro, 16th July, 1912. To His Excellency Dr. Eptacio Pessoa, President of the International Conference of Jurists.—Mr. President: As I am forced to absent myself to-day from this Capital at the moment when the projected law in regard to foreign decisions is to be discussed, and

agreeing therewith, I beg your Excellency to accept the authorisation I hereby give you to cast my vote in the affirmative, at the respective meeting, in my quality of delegate for Panamá and under the same conditions as Brazil. I thank you in advance and have the honor of subscribing myself your humble servant.—Santiago de la Guardia.»

«Rio de Janeiro, July 16th, 1912. To His Excellency the General Secretary of the International Conference of Jurists, Monroe Palace.—Mr. Secretary: As I must absent myself before the closing of the International Conference of Jurists, I beg of you that, interpreting my most respectful sentiments you tender a cordial «au revoir» in my name to our eminent President, to my distinguished colleagues and to the competent and active corps of Secretaries and employees. I beg of you to accept the assurance of my highest consideration.—R. Ancizar.»

«Rio de Janeiro, July 15th, 1912. Mr. President: It is our glad duty to make it known, through your kind offices, to the International Conference of Jurists, that the undersigned members of the Third Committee have met this day at the Monro Palace in order to organise the labors of the said Conference.

«At this preparatory meeting we exchanged ideas and agreed upon some fundamental view—points in relation to the codification of International Law.

«We made a choice of matters that we considered most apt to be brought under regulations, giving special attention to those that possess special interest for our continent.

«The speaker appointed shall address the governments of the different nations of America, asking them that, independently from the opinions which, in accordance with the regulations approved by the Conference of Jurists, they are to send to the sections into which same shall divide, they forward with the greatest possible despatch the data corresponding to the matters selected by the third committee.

«The following was besides resolved:—

«1.—To appoint as speaker of the committee, Mr. Alejandro Alvarez, delegate for Chile.

«The speaker must, in the accomplishment of his trust, gather all the information that the governments may send him and those that he may himself secure in order to prepare from this groundwork the projects of codification to be submitted to the study of the commission;

«2.—To hold the second meeting of the Committee at Santiago de Chile, in February, 1913;

«3.—To pass a vote applauding the initiative taken to found an American Institute of International Law, as the committee considers an institution of this kind of great usefulness to assist in the work of codification that the statesmen of the new world have in view. May God protect your Excellency.—N. Quirno Costa, V. E. Sanjines, Matias Alonso Criado, Alejandro Alvarez. To His Excellency, Mr. Epitacio Pessoa, President of the International Conference of Jurists.»

**THE PRESIDENT:**—At the preceding meeting this illustrious assembly approved, with slight modifications, the project for extradition as prepared by the special committee that had been appointed for the purpose.

These alterations have already been taken into consideration and the draft that has just been distributed among the delegates is in accordance with the last vote of the Conference. As the delegates can verify, the amendments approved which appear in the new text are the following:

In art. 2º, letter «B», where the project read, «with a penalty not inferior to one year's imprisonment» there was introduced the modification presented by Mr. Quirno Costa establishing two year's prison.

In art. 4º, letter «B», there was a very slight modification, a mere question of words. Where there was «Crimes against cults», there now appears «offenses against religion», only to make it clearly understood that the the project has in view crimes against religions and not in particular crimes against cultural exercises.

In art. 10º, the amendment proposed by the delegate for Peru' was introduced. Where there was «set free» there now appears «set free unconditionally» to put aside the hypothesis of freedom under bond.

In art. 12º, there was eliminated from the text the preference established for the state of birth, in accordance with the proposal of Mr. Quirno Costa, delegate for the Argentine Republic, and the wording was changed to that of the draft for the code of the Government of Brazil.

In art. 16º, sole paragraph, to the works «the recourse of *habeas corpus*» there was added «or of *amparo*» in accordance with the proposal of the Delegate for Mexico, Mr. Castillo.

Finally, Art. 24, in accordance with the motion of the delegates for Peru' and Venezuela, was made to read: «The

existing treaties remain in force in so far as they do not conflict with the above principles or grant more facilities for extradition than are here contained, especially in regard to the offenses that authorize same and the preference to be granted when solicited by different States at the same time. The States, likewise, can, while observing the above dispositions, effect new agreements in regard to extradition».

These were the corrections approved by this illustrious assembly, and these, as the delegates may see, have all been included in the final wording of the project.

If any delegate wishes to speak let him do so.

MR. VICTOR SAJINES, Delegate for Bolivia: — Not having been able to assist to the meeting at which this draft of a treaty in regard to extradition was discussed, and during which this honorable assembly introduced some amendments, I declare that I agree perfectly therewith and therefore have no objection to subscribe it with my colleagues.

THE PRESIDENT:—If no other deegate wishes to speak I shall consider the final draft of the project approved.

General assent.

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THE PRESIDENT:—I have asked from the National Printing House a copy of the project on parchment paper and of larger size to receive the signatures of the delegates, which formality can be accomplished to-morrow.

As to the project regarding foreign decisions, I am informed that only now has it been sent to the National Printing House and will probably be ready for distribution only to-morrow morning. Under these conditions, I request another meeting at 1 p.m., and as I am informed that some delegates wish to absent themselves, but only after contributing to the project in regard to foreign decisions, if necessary we may hold another meeting at night. There being nothing further to discuss, the meeting is adjourned.

The meeting ended at 3,30 P. O.

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## 6th. ORDINARY MEETING

JULY 17th. 1912

At 4 P. M. there being present the following delegates, to wit: Mr. Epitacio Pessoa, for Brazil; John Bassett Moore and Frederick van Dyne, for the United States of America; Mr. Norberto Quirno Costa, for the Argentine Republic; Mr. Victor Sanjines, for Bolivia; Mr. Miguel Cruchaga Tocornal and Mr. Alejandro Alvarez, for Chile; Mr. José Maria Uricoechea, for Colombia; Mr. Alejandro Alvarez, for Costa Rica; Mr. Aniceto Valdivia, for Cuba; Mr. Alejandro Alvarez and Matias Alonso Criado, for Ecuador; Mr. Antonio Batres Jauregui and José Matos, for Guatemala; Mr. Victor Manuel Castillo, for Mexico; Mr. Cecilio Baez, for Paraguay; Mr. Alberto Elmore and Herman Velarde, for Perú; Mr. Alonso Reyes Guerra, for Salvador; Mr. Juan Zorrilla de San Martin, for Uruguay; Mr. Pedro Manuel Arcaya, for Venezuela; Mr. Candido Luiz Maria de Oliveira, for Brazil, the meeting is declared open.

The minutes of the preceding meeting are and approved without remarks.

THE PRESIDENT: — We shall proceed to read the order of the day.

The General Secretary reads:

«Rio de Janeiro, July 17th, 1912. To his Excellency the President of the International Conference of Jurists. — I have the pleasure to bring to your knowledge that this day the 6th. Committee of the International Conference of Jurists, whose headquarters are to be in Lima, was installed and held its first meeting. In due course I shall have the pleasure of sending your Excellency a copy of the respective minutes. For this reason I have the honor to present to your Excellency the expression of my highest consideration. — Alberto Elmore.»

THE PRESIDENT: — Before the close of yesterday's proceedings, I communicated to the Conference that I had printed on parchment a copy of the project for extradition, such as it was finally accepted at the last meeting, in order to have it signed by the delegates and forwarded to the different governments, in the form adopted by the convention of August 23rd. 1906; as, however, different delegates made me feel after the meeting, the convenience of not giving to the project on extradition such a solemn appearance of a treaty, it being sufficient that same be authenticated by my signature and that of the General Secretary, I took the resolution of following this advise, delivering the project, so authenticated, to the Brazilian Government in order that it be forwarded to the different governments. This is the reason why I have not asked for the signature of the delegates.

The project of the committee in charge of preparing the work of codification in regard to sentences of foreign tribunals is on the table and the General Secretary will proceed to read the same.

THE GENERAL SECRETARY:—The project in question has been printed and copies have been distributed among the delegates. As, however, Mr. Castillo, delegate for Mexico, has made a really justified protest against the fact that the printed project is perfectly the same as the original, though a slight confusion in the copy, I shall proceed to read the project as it was presented.

THE PRESIDENT: — I would like to know if the protest of the delegates for Mexico, Mr. Castillo, is against the project only or also against the report.

MR. VICTOR MANUEL CASTILLO, Delegate for Mexico: — Not alone against the project "per se" but also, Mr. President, against the exposition. In the original deposited with the Secretary, signed by all the members of the committee, a most honorable mention is made of Mr. Candido de Oliveira, from whose project we took several articles that were to be presented to the approval of the Conference; and as this mention, very much deserved, is omitted through an error in the printing house, I would desire that all be read in order that the delegates may form an accurate judgment, passing thereafter to the discussion of the resolutions embodied in the project.

The General Secretary reads:

«The special Committee has experienced serious difficulties in formulating a project of execution of decisions rende-



red by foreign magistrates that would contain all the points within the scope of the subject.

From the start, the opinion was expressed by one of the members, annexed hereto as a separate vote, that it was impossible to outline such a project without obtaining the indispensable data from the interested governments in order to ensure a probable assent; data such as with so much reason the assembly of Jurisconsults in its last total gathering thought essential to begin the work of the other Committees; but that, in relation to ours, it did not deem indispensable notwithstanding the fact that the matter submitted to our study affects so closely the sovereignty of the States.

This vote was also founded on the variety of systems followed by the legislations of the American States, difficult to harmonize immediately, in spite of the great spirit of conciliation with which all of the undersigned are imbued.

The most serious objection was that not knowing the system adopted by the 5th. and 6th. Committees in charge of presenting the draft of the Code of Private International Law, our projected work would lack that unity indispensable to all consensations labors, if we were to adopt one from the start.

The committee struck by the strength of this reasoning has thought, notwithstanding, that it should accomplish its mission, albeit in a manner not altogether satisfactory to itself, in order to obey as far as possible to the injunctions of this Honorable Assembly, even if nothing further is obtained but to establish as a principle of International Law that the foreign judicial decisions be executed; since in the impossibility of accepting a uniform system, we have thought that the only thing possible at this juncture is to respect on this point the law of the country where the execution is to take place.

This circumstance very much narrows the circle of our action; but, on the other hand, we leave open the field for the study of the most important questions to the 5th. and 6th. Committees, as these will not find in the project presented by an obstacle to any system they may deem to submit to the Conference of Jurists.

We must say, as a homage to the illustrious author of the project presented by the government of Brazil, Mr. Lafayette Rodrigues Pereira, that the Committee have generally accepted the articles of his project with such modifications as were imposed by the difficulties pointed out above.

The Committee has thought best, not only to follow a practice constantly in use between nations, but also to throw light upon the conceptions embodied in some articles of the project, to add dispositions in regard to Rogatory letters in the course of legal processes during the lawsuit, taking also from the Lafayette project the inclusion among the rules, on the suggestion of the Delegate for Brazil, Mr. Candido de Oliveira, arbitral decisions and the modalities and exceptions of the law of the country of execution.

Owing to these considerations, we submit to the judgment of the Conference of Jurists the following:

## PROJECT ON THE EXECUTION OF DECISIONS AND ROGATORY LETTERS.

Art. 1.—A legal decision by the courts of one State is executable in the territory of another.

Art. 2.—In order that the decision should obtain execution, it shall be necessary to obtain from the territorial magistrate or tribunal, either the corresponding "exequatur" of its homologation, as required by the laws in force, essential or of procedure, in the country of execution.

Art. 3. — In order that the "exequatur" or homologation may be granted it shall be necessary:

1.—That the decision be accompanied by the external formalities that guarantee its authenticity;

2.—That it be final, with proof that no appeal against same is allowable in accordance with the laws of the country where it was given;

3.—That it shall not contain dispositions that transgress or offend the laws of public order of the country of execution;

4.—That it shall not have been given by default.

Art. 4.—The foreign decision that shall have obtained "exequatur" or homologation shall constitute a final judgment.

Art. 5.—The preceding rules are applicable to the decisions arrived at by judges in arbitration proceedings, in which case the authenticity and reality thereof shall be vou-

chsafed by an act emanating from the local tribunal of the country where the decision was rendered.

Art. 6.—The process of execution and its different exceptions, modalities and incidents, shall be governed by the laws customs and practices in force in the country where the execution is to take place.

Art. 7.—A translation of the decisions whose execution is requested shall be furnished to the tribunal from which the said execution is so requested.

Art. 8.—Rogatory letters, exhortations or commissions directed by the judge of a circumscription of one State to the judge of a circumscription of another State, asking for the practice of certain formalities and proceedings that relate to an action at law are allowable, such as sumous to the parties, the hearing of witnesses, inspections, examinations of accounts, the taking of aaths.

The exhorted judge, on accomplishing the formalities called for by the rogatory letters, shall observe the procedure of his own country.

Rio de Janeiro, Monroe Palace, July 12th. 1912.

(Signed) Miguel Cruchaga, Roberto Ancizar, A. Batres Juaregui, Victor Manuel Castillo, Candido de Oliveira (under reservees).

I accept Art. 1°. in the sense that the decision whose execution is asked be not against the laws of the country of execution. (Signed) Miguel Cruchaga.

The Committee in charge of preparing at this meeting a project of execution of foreign decision cannot in my opinion duly accomplish its mission for the following motives:

The idea that has guided the Conference in subdividing among different committees the work of preparing a project on the codification of International Law, is based on the desire to give the greatest solidity and consistency to the work undertaken, above all from a practical view, and in this sense the International Conference approved the rule that obliges the committees, "before beginning their work", to first solicit from each government, in connection with the subject allotted to them, information in regard to the internal laws of the country, to the judicial or administrative decisions, to the conventions and international questions that have occur-



red and the solutions given thereto, and in short, "the dispositions which such governments deem best suited in regard to the questions at issue". I see no reason why, when the other committees obey to such a safe and wise rule, ours should make an exception in a matter that so closely affects the sovereignty of States.

The diversity of systems accepted in the American legislations, from the necessity of an "exequatur" with the possibility of a litigious judgment and intervention of a State-attorney, to the simple writ of a judge of the first instance dictated on petition of plaintiff and without summons to the colitigant; from such as grant execution only with regard to decisions on personal suits to those that give free execution to all decisions, even if granted by default, excepting only such as are contrary to recognized public order, constitutes another obstacle to this committee's entertaining the pleasant hope of reaching within a short time to an acceptable approximation, even considering that its members are inspired by the most conciliatory of spirits.

But there is more than this: the Conference has appointed two committees (the Fifth and Sixth) entrusted with the work of preparing the projects for Private International Law and we could not, without breaking the unity of the work, not knowing the system that these committees have accepted, prepare beforehand a project of execution of decisions that might diverge from the direction followed by these committees. Nor be it said that we can accept general and optional principles or that we might exclude from our project the indispensable examination of international jurisdiction, whence follows, inevitably, the application of the system in force and accepted by each nation, because we should do a most deficient and, besides, an unnecessary work, considering that there is no American nation that, with more or less restrictions, fails to grant execution within its territory of the decisions and resolutions of foreign magistrates.

For these reasons it is my opinion, subject to more enlightened views of my colleagues, that the International Conference of Jurists allow our special committee to present the result of its labors when the Committees on Private International Law shall have adopted the system that, embodied in



in a project, is to be submitted to the approval of the next Conference of Jurists.

Rio de Janeiro, July 10th. 1912.

(Signed) Victor Manuel Castillo''

"The Brazilian delegate is of opinion that there is no difficulty in the immediate preparation of the project relative to the execution of foreign decisions, which the International Conference of Jurists have thought, almost by unanimity, proper to have prepared during its present session.

The Jurists of the different nations have had, with sufficient antecedence, a knowledge of the two projects organized by the Brazilian Government, to serve as a basis for the discussion.

In the draft on Private International Law, we shall find chapter 6th. that treats precisely of the question the study of which was entrusted to this committee. As the question at issue is of a new law, that can only come into force after approval of the legislative body of each State, it does not seem very material if some rules were adopted in contradiction to some of the principles that obtain in the local laws.

Private International Law has in view exactly the solution of conflicts between legislations.

It seems to me therefore that we should do a work more complete than that which was formulated by the majority of the Committee.

Some of the ideas that I propose during the discussion, were, it is true, accepted and form a part of the project that is about to be submitted to the consideration of the illustrious General Assembly; but I believe that the following dispositions, contained in the project that I had the honor to submit to the committee and that it re-arranged in the project as prepared, should not be discarded.

Thus, it would be convenient to add the following:

To Art. 6º.:

§ 1º. — The judges or territorial tribunals are not competent to modify, alter, abrogate or substitute and annul the decision: they must content themselves with declaring that the decision is impracticable, in case it should contain dispositions that transgress, or conflict with, the laws of public order.

To art. 9°. — Independently of homologation and solely on presentation of the declaration of bankruptcy and of the titles of appointment in authenticated form of the legal representatives of the Estate of the bankrupt, these shall be in position as mandatories to solicit in the State where the decision is to be executed, acts tending to secure the rights of the Estates, collect debts, make compromises (if empowered to do so) and commence legal proceedings without the obligation of furnishing security for Costs. For these, however, the attorney promoting such legal proceedings shall be responsible.

§ 1°. — All the acts that imply the execution of decisions, such as the renting or sale of property of the bankrupt, can only be practised after the decision has become executable by homologation or "exequatur", the local legal forms being adhered to.

§ 2°. — Notwithstanding homologation or "exequatur", the creditors located in the State where the decision is to be executed that possess mortgages on the property therein located, shall not be prevented from demanding their credits or foreclosing the mortgages.

§ 3°. — The agreements with creditors and other modalities of the declaration of failure are subject to homologation or "exequatur" and shall only be binding upon the creditors that shall have been summoned to take part therein.

(Signed) Candido de Oliveira.»

THE PRESIDENT: — The project is under discussion.

MR. CANDIDO DE OLIVEIRA, Delegate for Brazil: — Mr. President, as I already stated in the exposition of motives, some of my ideas were accepted; nevertheless, their acceptance by the Committee was not complete, for which motive I beg to submit my project in its original form.

(The following project in put on the table).

## ON THE EXECUTION OF FOREIGN DECISIONS.

### Art. I

The decision given in one State can be executed in another, provided it meet the following desiderata:

1°.) that it be accompanied by the external formalities necessary to render it executable, in accordance with the legislation of the respective State;

2°.) that it should have passed in final judgment;

3°.) that it be accompanied by a translation in the language of the State where the execution is to take place;

4°.) that it shall not contain dispositions that transgress, or conflict with, a law of public order;

5°.) that it shall first obtain the "exequatur" of the territorial judge or authority or be thereby homologated, in accordance with the legal system adopted within the State.

## Art. II

The process of execution and its different modalities and incidents shall be governed by the laws, usages and practices in force in the State wherein such is carried out.

Notwithstanding, the judge or territorial tribunal are not competent to modify, alter, arrogate or substitute and annul the decision, except the case provided in art. I, n° 4, wherein the decision shall be declared impracticable.

## Art. III

In the of execution, the parties may allege exceptions that annul the rights affirmed by the decision, such as payment, prescription, compromise or compensation, in accordance with the respective domestic laws.

§ 1°. — Among the motives for opposition to the execution of decision the following are included:

1°.) any doubt as to the authenticity or meaning of the decision;

2°.) the fact that the decision is not final;

3°.) the fact that the decision was given by an incompetent magistrate or tribunal;

4°.) the fact that summons were not served on parties, or that their default was not legally verified if they failed to appear. In no case is evidence allowable as to the cause in itself.

§ 2°. — From the decision of the magistrate such recourses are allowable as are admitted by the laws of the State where the execution is to take place.



## Art. IV

The following classes of decisions must obtain homologation or "exequatur" for their execution; to wit:

- a) As to division of estates;
- b) those that are mere declarations, such as decisions in regard to the status of persons;
- c) arbitral decisions judicially homologated;
- d) decisions declaring the bankruptcy of merchants or corporations that be domiciled in the countries where such decisions are given.

## Art. V

Independently of homologation, and solely on the exhibition of the decision and of the appointment in due form and authenticated of the legal representatives of the estates, these shall be empowered, as mandatories, to solicit from the state where the decision is to be executed proceedings tending to protect the rights of the estate, to collect debts, to compromise, if they should possess powers to do so, to begin legal action without the obligation of furnishing security for costs. For these, however, the attorney promoting such legal action shall be responsible.

§ 1°. — The acts implying the execution of decisions, such as seizure and sale of property of the bankrupt, shall only be practicable when the decision becomes executable by the homologation or "exequatur", the local forms of procedure being observed.

§ 2°. — Notwithstanding the homologation or "exequatur", the creditors domiciled within the state where the decision is executed shall not lose their right to demand their rights or foreclose mortgages on property.

§ 3°. — The compromises and other means of preventing the declaration of bankruptcy are subject to homologation or "exequatur", and shall only be binding upon the creditors that shall have been summoned to take part therein.

## Art. VI

The decision given in final judgment, after obtention of the "exequatur" or homologation, produces a judged cause.

THE PRESIDENT: — In accordance with the method followed in connection with the voting of the project on extradition, I



shall submit to votes the project presented by the Committee on foreign decisions, if these be no opposition or conflicting motion from one of the delegates.

MR. VICTOR MANUEL CASTILLO, Delegate for Mexico: — Mr. President, I would like to know what was the proposal made by Mr. Candido de Oliveira, as I did not hear it.

THE PRESIDENT: — Mr. Candido de Oliveira declared that, as can be seen from his separate vote, many of the ideas of the project presented by him to the Committee had been accepted; but, that as in any case his project constituted a complete organization, methodical and indivisible, he placed on the table said project such as he had prepared it.

However, I shall submit to the votes of the delegates, in accordance with the practice followed during last meeting in connection with the treaty on extradition, the project of the committee, reading each one of the articles and considering as approved those that shall not elicit opposition or suffer amendment beyond the ideas contained in the counter-project or Mr. Candido de Oliveira.

MR. VICTOR MANUEL CASTILLO, Delegate for Mexico: — Gentlemen. As you must have seen from the separate vote that I had the honor to present to the special committee appointed to prepare this project of execution of foreign decisions, in this anticipated opinion, I declared that it was not possible for the members of the committee to agree upon a uniform, harmonious and, above all, complete project on this question.

The eminent jurist and delegate for Brazil, Mr. Candido de Oliveira, was in complete accord with me in regard to the deficiency of the project prepared and so expressed himself in a foot note to the project; but is of opinion that as this is a simple project that is to be subjected to later approval by the governments, it little mattered to the Committee and still less to this Assembly, to include in said project the most advanced principles of the science of Private International Law, as conquered by present times with the idea that later the governments adopt them, or, at least, have in these principles an ideal help up before them, toward which to move sooner or later.

The opinion of Mr. Oliveira is certainly laudable, but, unfortunately, in my opinion it suffers from the defect attached to all ideal conceptions. All the theorists of law rise to the summits of science forgetting the lowland we tread. And what I had foreseen occurred. The learned jurist Mr. Cruchaga formed a part of the committee as its Chairman. I knew the legislation of his country

with regard to non admission of foreign jurisdiction within its territory. Chile is so jealous of its sovereignty and jurisdiction that, in a fundamental article of its public law, at the basis of its constitution, at first appeared the non admissibility of foreign laws within the Chilian boundaries.

The growing needs of commerce, the impulsive forces that law and justice possess in their slow evolution, made the Chilian legislator break, soften the inflexibility of this principle and gradually brought him to admit the application of foreign laws in his territory, maintaining however this barrier; the non application of such as were opposed to his own legislation, without any distinction between such as are contrary to public order or not.

I could not therefore believe, as was later confirmed, that the representative of Chile, however great might be his good will, should affix his signature without a restriction concerning the legislation of his country. And thus it was, Gentlemen. After approving a number of articles of such an admirable ductility and flexibility, as to constitute an almost useless project, because it is optional and recognizes all systems, that eminent jurist Mr. Cru- chaga signed it over a foot note that makes the project approved almost worthless.

This was the confirmation of what I had predicted; viz, that we would not reach an agreement.

But this very distance between the different legislations also exists in regard to the views on this subject, to weigh and involve a project, serious, uniform and above all possessing that unity that must possess all lasting works.

I am acquainted with and have had long intercourse with some of the delegates that form the Fifth Committee to meet at Montevideo and that is in charge of evolving part of the project of Private International Law. We also know humanity: jealous of its conquests. Proud of the principles established on the Congress that for the first time audaciously ventured upon this question of Private International Law, they shall refuse to step backward and naturally, cannot in any wise admit, in regard to foreign decisions, that these be subject to «exequatur» from local authorities and an «exequatur» implying the homologation of the decision, if not with summoning of parties to the narrow limits of a judgment, with the presentation of exceptions, with a procedure that amounts to a revision in a new action of the controversy.

For these at Montevideo, for all the American nations or States that accept these principles, to recognize the «exequatur» principle is to move backward: for the Chilians it is impossible to

advance as far as these. And if these are the obstacles I foresaw and that now arise it is not possible to obtain an approximation.

Under these circumstances I requested then, and again ask here even if with some modifications, that instead of the special committee's presenting immediately and at this session a deficient and deformed project, the indispensable time be given to it to find its bearings and ascertain the system that the Fifth and Sixth Committees on Private International Law shall adopt, in order that uniformity may be attained in the result of our efforts.

The honorable delegate for Brazil, Mr. Oliveira, thought and doubtless with reason, that we should fail in our duty by not respecting the will of this Assembly and not presenting a project of some kind, notwithstanding the difficulties confronting us.

With this end in view, and no one objecting, my proposal was laid aside and we drafted the most deficient project now under discussion. But, as I am on my side desirous of carrying through a serious and conscientious work, and to maintain for this gathering the firmness of direction that it has followed, fortunately, hitherto, owing to the mature judgment of all of its members, I hereby present formally a motion to the effect that this project, with all of its shortcomings, be submitted, with the proposal of the Brazilian delegate and with the observations made by us, to the Fifth and Sixth Committees or to whichever it corresponds in order that at the next gathering of the International Conference of Jurists a report be presented, taking into account the serious difficulties that its approval at the present moment offers.

I present this motion and beg the President to submit it to votes.

MR. CANDIDO DE OLIVEIRA, Delegate for Brazil: — Mr. President, what the illustrious delegate for Mexico asks is a reproduction of his written vote, but I must remind you that this illustrious assembly, in plenary session, decided that this question of foreign decisions be discussed during the actual Congress.

In the draft made by Mr. Lafayette the matter is outlined, we are all barristers here and therefore I see no reason to decide that the matter be referred to a second committee at Lima. This would be in contradiction with the principle accepted by the Conference.

I am of opinion that the project be discussed, and that the Conference pass upon it.

THE PRESIDENT: — Mr. Castillo, delegate for Mexico, moves that the Conference of Jurists shall not discuss the project



and refer it, just as it has come from the special committee, with the amendments suggested by the delegate for Brazil, to the second sub-committee which is to meet in Lima to treat of Private International Law.

The delegate for Brazil opposes this motion, under the plea that if the commission of jurists has resolved that during its actual session two projects be prepared, one on extradition, another on foreign decisions, it would be a violation of this decision to desist now from the realization of the project on Foreign Decisions to send it to a sub-committee which is to meet later.

MR. ALBERTO ELMORE, Delegate for Perú: — Mr. President, I must observe that the difficulties shown by the delegate for Mexico, Mr. Castillo, that militate against an agreement of all the countries here represented upon the project of execution of foreign sentences shall subsist in the case of its being referred with its amendments to the committee at Lima to which it corresponds: These difficulties will remain the same if, in getting up a general international agreement it be necessary to consider the laws of each country, and probably no practical solution could be arrived at or at least, such countries as insisted upon the maintenance of their national legislation, would not subscribe to the convention or agreement.

This inconvenience will not be avoided by simply postponing the question for less than two years and referring the project under discussion to the committee that would study it.

On the other hand, I fail to see that there exists any danger for the unity of the work, as the project in question relates to a matter entirely separate from those that are to occupy the Sixth Committee; in such a manner that the resolution taken by the actual assembly would remain as a separate and independent subject and, naturally, would be respected as such by that Committee.

Hence, I am of opinion that the motion proposed by the delegate for Mexico is unacceptable and that the will of the Conference must be carried out.

THE PRESIDENT: — The delegates have heard the remarks of the delegate for Perú, who is of opinion that the fact of the impossibility of an agreement at the present moment, from the reasons brought forward, on the question of foreign decisions, is no reason why the study thereof should be referred to special committee.

If all the nations adhere to their special legislations and are unwilling to give way on this point, then an agreement shall be impossible. If at this moment, all the nations being represented



here it be impossible to agree upon the matter of foreign decisions, with greater reason shall this understanding be unrealizable in a committee where only four to six nations can be represented.

Under these circumstances, the motion presented by the delegate for Mexico does not appear to him to be well grounded and he is of opinion that it must not be approved.

MR. VICTOR MANUEL CASTILLO, Delegate for Mexico: — Mr. President, I wish to bring to notice that time has its influence on the consciences of men and nations and that, if, actually, it be impossible to cast the different legislations into the same mould ot to accept one system, no one can conclude that tomorrow this will still be impossible. On the hand if to-day we are so far apart, it may be that within two years, if not positive, ly united, we maw be closer together and in this manner, we should always progress more than we would by acting now, — at least the subject would remain open to discussion.

The simple fact of the actual discussion wakens in the conscience of nations and law-makers, of philosophers and jurists, the idea that two years hence we shall perhaps reach an approximation.

I am not among the unbelievers in the evolution that time brings about in the minds and consciences of nations and legislators. It is precisely this evolution that is the origin of law.

From now to the time set it may be than the difficulties that intervene, material needs, community of interests, force the legislations that now diverge to approximate toward the principles and ideas now conquered by the science of Private International Law, and thus the work of the Conference of Jurists shall be more serious, more compact, more solemn, in a word, more worthy of the elevated and culture juridical and intellectual elements that are assembled here.

In this sense, I believe these circumstances should be taken into account and, in consequence, I ask the delegates to approve the motion formulated by me.

THE PRESIDENT: — The delegate for Mexico insists upon the reasons alleged from the first asking for the approval of the motion made by him to postpone the study of the question of foreign sentences, referring the project to the sub-committee which is to meet at Lima.

I had announced that I would submit to votes the project presented by the Committee, but Mr. Castillo's motion being prejudicial, must be discussed and voted first.

If no other delegate wishes to speak, I shall submit to votes the motion of the delegate for Mexico.

The delegations shall be called nominally. Those that are in favor of Mr. Castillo's proposal to send the project to the sub-committee at Lima answer "AYE"; those that are of opinion that the Conference of Jurists actually assembled should in any case do something in the way of codifying the question of foreign decisions answer "NAY".

A nominal vote is taken, with the following result: AYES: North America, Argentine Republic, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Mexico, Salvador and Uruguay. NAYS: Bolivia, Panamá, Paraguay, Peru', Venezuela and Brazil.

THE PRESIDENT:—The proposal of the Delegate for Mexico, Mr. Castillo, having been approved, the Office of the Conference shall now take measures to refer to the project prepared by the special Committee to the Sub-Committee which is to meet in Lima, as the work relating to the codification of foreign decisions belongs thereto.

As there is no further business to discuss, I shall adjourn the meeting. At an opportune moment I shall call another meeting, which shall be announced to the delegates by the Office of the Conference.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—When shall the next meeting be held?

THE PRESIDENT:—I cannot yet set a date, as the next meeting being that of the closing of our labors, since there is no further business to dispose of, and as this last meeting must be presided over by the Minister of Foreign Affairs, I cannot on my exclusive authority set a day and hour for the Minister's appearance.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—You are quite right, Mr. President.

THE PRESIDENT:—In this manner, as soon as I have arranged with his Excellency the Minister of Foreign Affairs, I shall set a date for the last meeting of the Conference. This done, I shall be able to call a meeting one hour before the said meeting, in order to approve the minutes of the present one and to furnish an opportunity to any delegate who may have any motion to offer.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—I would like to know, Mr. President, if the next meeting will have as only object to declare the closing of our labors.

THE PRESIDENT:—Yes, unless your Excellency or some other delegate should propose some new subject for discussion, as there is no further matter on the table for the order of the day.

Mr. VICTOR MANUEL CASTILLO, Delegate for Mexico:—There is a motion which we consider very important, that is to make known to the Brazilian Government our most sincere thanks for the cordial reception that it has given us and for the efforts made to render the codification of Private and Public International Law practicable.

THE PRESIDENT:—The delegate for Mexico has probably not heard the declaration which I have just made, that before the closing meeting I shall call another for the approval and signing of the minutes. At that time, the delegates may offer any motion or indication.

Mr. HERNAN VELARDE, Delegate for Peru:—I believe that I voice the sentiments of this illustrious assembly by proposing our colleague and delegate for Uruguay, Mr. Zorrilla de San Martin, to reply in the name of the International Conference of Jurists to the farewell to be pronounced by his Excellency the Minister of Foreign Affairs at the closing meeting.

THE PRESIDENT:—Mr. Hernan Velarde proposes that Mr. Zorrilla de San Martin be appointed to answer the address that the Minister of Foreign Affairs shall deliver at the closing meeting of the Conference. General assent.

Mr. MIGUEL CRUCHAGA, Delegate for Chile:—I propose to my colleagues that we pass a vote of applause to our worthy President for the gentle and courteous manner in which he presided over the International Conference. General assent.

THE PRESIDENT:—I thank the Conference and especially Mr. Cruchaga for the deference just shown to the Chair.

Mr. MATIAS ALONSO CRIADO, Delegate for Ecuador:—Broadening the scope of the opportune thought and just homage of Mr. Cruchaga Tocornal, worthy delegate for Chile, in regard to the direction and criterium of the President in the organisation and progress of this Congress, I propose a motion of applause and compliment to the illustrious General Secretary, Mr. Souza Bandeira and to all of the personnel that, under his orders, has seconded our work and earned our gratefulness by its attentions toward the delegates. (Appluse.)

THE GENERAL SECRETARY:—I thank the Conference and Delegate for Ecuador in my name and in that of my assistants.



Mr. JUAN ZORRILLA DE SAN MARTIN, Delegate for Uruguay:—As an honor, as great as undeserved, I accept an appointment, that truly confuses me, to interpret at the solemn session that will close our labours the sentiments of the International Conference of Jurists.

THE PRESIDENT:—There being no further business to transact the meeting is adjourned.

The meeting was closed at 5.35 P. M.

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## 7th. ORDINARY MEETING

JULY 19th. 1912

At 4-10 p.m., the following delegates being present, to wit: Mr. Epitacio Pessoa, for Brazil; Mr. John Bassett Moore and Mr. Frederick van Dyne, for North America; Mr. Norberto Quirno Costa, for the Argentine Republic; Mr. Victor Sanjines, for Bolivia; Messrs. Miguel Cruchega and Alejandro Alvarez, for Chile; Mr. José Maria Uricoechea, for Colombia; Mr. Alejandro Alvarez, for Costa Rica; Mr. Aniceto Valdivia, for Cuba; Messrs. Alejandro Alvarez and Matias Alonso Criado, for Ecuador; Mr. Antonio Batres Jauregui and Mr. José Matos, for Guatemala; Mr. Victor Manuel Castillo, for Mexico; Mr. Cecilio Baez, for Paraguay; Messrs. Alberto Elmore and Hernan Velarde, for Peru; Mr. Alonso Reyes Guerra, for Salvador; Mr. Juan Zorrilla de San Martin, for Uruguay; Mr. Pedro Manuel Arcaya, for Venezuela; and Mr. Candido Luiz Maria de Oliveira, for Brazil, the meeting is declared open.

The minutes of the preceding meeting are read and approved without remarks.

THE PRESIDENT:—The Secretary will proceed to read the order of the day.

THE GENERAL SECRETARY reads:—(Telegram) «Pernambuco, 18.—President, Meeting Jurisconsults, Rio.—Shall arrive «Amazon»—Lugo, Dominican Delegate.

«Rio de Janeiro, 17th July, 1912.—To His Excellency the President of the International Conference of Jurists.—It is my duty to enclose to your Excellency a copy of the minutes of the installation meeting of the Sixth Committee held yesterday at the Monroe Palace. I renew to your Excellency the sentiments of my highest consideration.—(Signed) Alberto Elmore.

COPY OF THE MINUTES OF THE INSTALLATION MEETING OF  
THE SIXTH COMMITTEE OF THE INTERNATIONAL CON-  
FERENCE OF JURISTS, THAT IS TO ASSEMBLE AT LIMA.

In the city of Rio de Janeiro, on the 16th day of the month of July, 1912, at the Monroe Palace, Mr. Alberto Elmore, President of the Delegation for Peru; Mr. Victor Sanjines, delegate for Bolivia; Mr. Aniceto Valdivia, delegate for Cuba; and Mr. Pedro Manuel Arcaya, delegate for Venezuela; through the initiative of the first named, met with the object of installing the Sixth Committee of the Conference of Jurist, that is to meet in the City of Lima.

Messrs. San Ginés and Valdivia declared that although not delegated to the Committee that is to labor at Lima, they shall represent their countries at the meetings held in Rio de Janeiro in lieu of such as shall for part of said Committee and that are not in this city, the delegate for Bolivia stating that he believed his government would not make the corresponding nomination.

The delegate for Bolivia, Mr. San Ginés, proposed that the President be authorised to appoint the employees required for the Committee's Secretary's office, the expense being distributed proportionately among the governments represented. Mr. Elmore declared that he would communicate this proposal to his government, that, assuredly, would assume alone the expense. This was agreed to.

It was agreed that the Chairman of the Committee would be given charge of obtaining from each government, in relation to the subject designated, the data pointed out in the resolution of the Conference of Jurists on the organization of partial committees, to prepare the projects that are to be submitted to the Conference, and that Mr. Luis Alayza Paz Roldan, Secretary of the Delegation for Peru, would act in a similar capacity in the Committee.

It was also agreed that the meeting of the Sixth Committee should be communicated to the Conference of Jurists that is actually assembled in Rio de Janeiro and to the governments therein represented, and also that the committee meet at Lima during the month of February, at which time communications shall have been received from said governments.

Mr. Arcaya had it placed on record that not possessing expressed instructions from his government, in regard to the method of organization and of working adopted by the Conference of Jurists in subdividing itself into committees and resolving upon the prolongation of its labors, he had only consented in taking part in this special meeting and in the others that the minutes mention, under the restriction of ulterior deliberations of his government.

The meeting was adjourned at 3-40 p.m., until a new convocation.

19th July, 1912. To His Excellency the President of the International Conference of Jurists.—The Sixth Committee, which met this day, with a view to resolve upon the subjects which it is to study, proposes that the list hereunder be approved. In communicating the above to your Excellency I renew the sentiments of my highest consideration.—(Signed) Alberto Elmore.

#### SUBJECTS WITH WHICH THE SIXTH COMMITTEE SHALL BUSY ITSELF.

(a).—Civil Law.—1, Real rights (Project 29 of Lafayette). 2, Obligations (Project 33 of Lafayette), and also authors' and artists' rights (Montevideo treaty); patents of inventions (Montevideo Treaty) and trade marks (Montevideo treaty and Pessoa project).

(b).—Law of Procedure.—1, Competence. Jurisdiction (Project 41 of Lafayette and Montevideo Treaty). 2, Execution of foreign sentences (Lafayette Project and Montevideo Treaty).

(c).—Commercial Law.—I, Commercial act, trademarès (Lafayette project), corporations (Montevideo treaty). 2, Bill of exchange (Lafayette project and Montevideo treaty). 3, Maritime commerce (Pessoa and Montevideo treaty). 3, Maritime commerce (Pessoa project), charter parties, seamen, average, putting into port, shipwrecks, collisions (Treaty of Montevideo). 4, Bankruptcy (Lafayette project and Montevideo treaty).

(d).—Conflicts of Penal Law.—Second resolution of the Conference. 1, Penal jurisdiction (Pessoa project and Montevideo treaty). 3, Extradition (already approved by the Conference.)



Third Sub-Committee of the International Conference of Jurists. Minutes of the first meeting. On the 15th of July, 1912, the undersigned members of the Third Sub-Committee of Jurists met in a room of the Monroe Palace in order to organise the labors of said Committee.

It was found convenient to begin this first meeting by an exchange of ideas concerning some fundamental viewpoints relative to the Codification of International Law.

In this connection several of the topics indicated by the delegations for Chile and the Argentine Republic in a memorial to the first ordinary meeting of the International Conference of Jurists were considered and the unanimous opinion was that the codification should be gradual and progressive. To the aggregate of headings denominated a code, new matters can be added and the existing modified in order that the regulations agreed upon be always in harmony with the political, economical and social requirements of the States of the New World.

Immediately thereupon a selection was begun of the subjects the Committee believes susceptible of codification, the choice principally falling on such as have a special interest for the American continent and on which the need for regulations has been more especially felt. A distinction was obligatory between such as had or had not been considered at the Pan-American Congresses, as on such as had not it will be necessary to obtain data and information from the different countries.

The subjects chosen were the following, without preferential order:—

#### SUBJECTS CONSIDERED AT PAN-AMERICAN CONFERENCES.

Pan-American Congresses, Pan-American Union, Pan-American commissions accredited to the Ministries of Foreign Affairs of each State, Inter-continental railway, maritime navigation, uniformity of consular documents, unification and simplification of custom house formalities, uniformity in gathering commercial statistics, general American census, literary and artistic property, exchange of publications, university interchange of professors and students, rights and duties of foreigners, diplomatic claims, extradition, sanitary police.

## SUBJECTS NOT CONSIDERED AT PAN-AMERICAN CONGRESSES

Diplomatic and consular agents, immigration, colonization, nationality, condition of juridical entities, responsibilities of states for the acts of their agents, rights and duties of governments with regard to factions within their territories and hostile to the governments of neighboring states, rights and duties of adjoining states in zones contested owing to delineation of frontiers not having yet been proceeded to, frontier police, international police, sovereignty over seas and lands located in the Antarctic Zone of the American continent, territorial sea, treaties, international railways, navigation of rivers and lakes, cables, mails, telegraph and telephone (facilities of communication by and minimum rates), scientific congresses, liberal professions, validity of professional titles.

In regard to methods and forms of work, the following resolutions were taken:—

1.—To designate Mr. Alejandro Alvarez, delegate for Chile, as «rapporteur» of the Committee.

2.—That the President of the Committee address the governments of America, requesting that, without prejudice of the opinions that in accordance with the regulations approved by the Conference of Jurists they are to forward to each of the sections into which same has divided, they forward to the «rapporteur», if possible in duplicate, information concerning the subjects chosen by the Third Committee.

3.—That after receipt of the data that the governments forward and those obtained by him direct and the suggestions that each of the members of the Committee judges proper to make, the «rapporteur» shall prepare the project of codification allotted to the Third Committee to submit it to the study of its members at their next meeting.

This shall be held at the Ministry of Foreign Affairs of Chile during the month of February of the coming year.

4.—To pass a vote of applause to the initiative taken to found an American Institute of International Law, considering that such an institution is of great utility to cooperate in the work of codification resolved upon by the states of the New World.

5.—To authorise the «rapporteur» to engage under his orders one or two clerks that shall be remunerated by the governments represented on the Committee.

(Signed) N. Quirno Costa, V. E. Sanjines, Alejandro Alvarez, Matias Alonso Criado.

Rio de Janeiro, July 16th, 1912.—Considering that the Government of Brazil, in order to facilitate the work of the Conference of Jurists, presented the projects of Public International Law and Private International Law, prepared by the eminent juriconsults, Messrs. Eptacio Pessoa and Lafayette Rodrigues Pereira, respectively, works of unquestionable merit and that the conference has considered one of the basis of the Committee's labors;

Considering that the Government of Brazil placed at the disposal of the Conference of Jurists all manner of elements to enable it to carry out the end for which it was created and to render the stay of the foreign delegates agreeable, wherein it was seconded by the cultured society of this Capital;

The Conference of Jurists passes a vote of thanks to the Government of Brazil for its valuable contribution to the work of the codification of International Law and for the splendid and cordial reception offered to the delegates.

#### SUBJECTS NOT CONSIDERED AT PAN-AMERICAN CONFERENCES.

THE PRESIDENT:—The Conference has just heard the reading of the resolutions offered by Mr. Castillo, Delegate for Mexico. The motion is under discussion.

Mr. MIGUEL CRUCHAGA, Delegate for Chile:—Mr. President, the delegation for Chile gives its assent to the motion presented by Mr. Castillo, Delegate for Mexico, and asks the Conference of Jurists to vote same by acclamation.

Let the delegates rise as a sign of assent.

THE PRESIDENT:—In accordance with the indication made by the Delegate for Chile, Mr. Cruchaga, the motion of Mr. Castillo, Delegate for Mexico, was passed by acclamation.

As there is no further business on the table and as the minutes of the preceding meeting have been approved, I shall give the floor to any delegate who has a motion or proposal to make.

Mr. HERNAN VELARDE, Delegate for Peru:—Thiss assembly has decided upon the month of June, 1914, for its next



gathering, but has not set an exact date, which might create difficulties when the time comes to convoke same. For this motive, I beg leave to propose that the Government of Brazil be asked to set an exact date within the month of June, at the opportune moment, for the meeting of the Conference.

THE PRESIDENT:—The Delegate for Peru, Mr. Hernan Velarde, considering that the Conference has not set an exact date within the month of June on which it is to meet for the second time in Rio de Janeiro, proposes that it be suggested to the Government of Brazil to communicate at an opportune moment the exact day on which the meeting is to take place.

The proposal is under discussion.

Mr. NORBERTO QUIRNO COSTA, Delegate for the Argentine Republic:—There can be no opposition, Mr. President.

THE PRESIDENT:—If no delegate opposes the proposal made by Mr. Velarde, Delegate for Peru, I shall consider it approved. (Pause.) It is approved.

The General Secretary has a communication to make to the Conference.

THE GENERAL SECRETARY:—I beg to inform the delegates that the Secretary's Office shall now have its quarters at the Ministry of Foreign Affairs, where a sort of center of communications shall be established to receive the reports as prepared and, in turn, to transmit information to the Sub-Committees. I therefore beg from the delegates to leave their addresses, with the declaration of the members of the committees to which I should forward the respective communications.

THE PRESIDENT:—I shall suspend the meeting for a quarter of an hour to give time to make out the minutes of this meeting.

The meeting is interrupted at 4,20 P. M.

At 4,45 P. M. it is again resumed and the minutes are read and approved without discussion.

THE PRESIDENT:—The minutes being approved, I shall adjourn the meeting. I beg to call the closing meeting—at which the Minister of Foreign Affairs shall have to appear—for 5 p.m.

The meeting ends at. 4,50 P. M.



## SOLEMN CLOSING MEETING OF

JULY 19th. 1912

At 5 p.m., the following delegates being present, to wit:—Mr. John Bassett Moore and Mr. Frederick van Dyne, for the United States of America; Mr. Norberto Quirno Costa, for the Argentine Republic; Messrs. Alejandro Alvarez and Miguel Cruchaga Tocornal, for Chile; Mr. José Maria Uricoechea, for Colombia; Mr. Alenjandro Alvarez, for Costa Rica; Mr. Victor Sangines, for Cuba; Mr. Alejandro Alvarez and Mr. Matias Alonso Criado, for Ecuador; Mr. Antonio Batres Jauregni, for Guatemala; Mr. Victor Manuel Castillo, for Mexico; Mr. Cecilio Baez, for Paraguay; Messrs. Hernan Velarde and Alberto Elmore, for Peru; Mr. Alonso Reyes Guerra, for Salvador; Mr. Juan Zorrilla de San Martin, for Uruguay; Mr. Pedro M. Arcaya, for Venezuela; Mr. Candido Luiz Maria de Oliveira, for Brazil; the solemn closing meeting was declared open.

THE PRESIDENT:—His Excellency the Minister of Foreign Affairs being present in one of the apartments of this building, I request Mr. Frederick van Dyne, Delegate for the United States of America; Mr. José Maria Uricoechea, Delegate for Colombia; and Mr. Cecilio Baez, Delegate for Paraguay; to form a committee to accompany him to this hall.

The Minister of Foreign Affairs is introduced and occupies the Presidential Chair, M. Epitacio Pessoa, President of the Conference, remaining at his right.

THE MINISTER OF FOREIGN AFFAIRS:—Mr. Epitacio Pessoa has the floor.

Mr. EPITACIO PESSOA:—The functions of the International Conference of Jurists having come to an end for the time being, in accordance with the terms of the report approved on the 8th of this month at its second ordinary meeting, I must, before declaring the postponement of our labors for the time



fixed for our second session—in June, 1914—present a succinct review of the work done during this first period.

After holding on June 26th, under the presidency of Mr. Victor Castillo, Delegate for Mexico, a preparatory meeting, during which the Conference approved provisionally its internal regulations, the International Conference of Jurists on that very day, which was the one fixed for the beginning of its labors, solemnly installed itself under the presidency of His Excellency, the Minister of Foreign Affairs of Brazil, 14 nations being represented by delegates: United States of America, Argentine, Chile, Colombia, Costa Rica, Ecuador, Guatemala, Mexico, Panamá, Paraguay, Peru, Salvador, Uruguay and Brazil, which number rose to 17 with the arrival of representatives of Cuba, Bolivia and Venezuela. At this meeting, on the proposal of Mr. Uricoechea, Delegate for Columbia, his Excellency, the Minister of Foreign Affairs was made honorary President by acclamation, and, on the motion of Mr. Alejandro Alvarez, Delegate for Chile, the representative for Brazil, that at this moment addresses you, effective President.

At the first ordinary meeting held two days later, on June 28th, the delegations for the Argentine Republic and Chile presented a motion to the effect that before any work in regard to the codification, a committee of five members be appointed to obtain the opinions of the different delegations on the conception of the codification, the determination of the subjects it is to embrace, the method of working thereon and other points suggested by the delegations and to ascertain up to what degree and in what directions could an understanding be reached.

On the 6th of the present month, the Committee appointed, together with their draft of the proposed domestic regulations, presented a project for the methodical organisation of the work in hand and, moreover, proposed: 1.—That two committees of five members each be appointed during this very session to prepare, one a project on extradition and the other a project on the execution of foreign decisions; 2.—That the month of June, 1914, be fixed for the second session of the International Conference of Jurists.

This report was approved at the meeting of the 8th inst., against the vote of the Delegate for Salvador as to the project of organization and method of working, as His Excellency was of opinion that the postponement of the International Conference of Jurists and its division into special committees, as proposed in the project, did not correspond to the aspirations and noble aims of the Third Pan-American Congress, since, the work of the codification being already done in the two projects for codes sub-

mitted from the beginning to the consideration of the Conference that body should distribute the study of the different parts thereof among the delegates present, that, on a date which would be fixed, could propose such substitutions, amendments or extensions as they thought fit.

The above mentioned project on organisation and method of working provides for the division of the International Conference of Jurists into 6 special committees, four for the codification of Public International Law and two for that of Private International Law, which, in the interval of the two sessions, would assemble:

The first at Washington (with the faculty of dividing itself into two);

The second at Rio de Janeiro;

The third at Santiago de Chile;

The fourth at Buenos Aires;

The fifth at Montevideo;

The sixth at Lima.

The first four to have the mission of codifying the following questions of Public International Law:

The first, maritime war and rights and obligations of neutral powers;

The second, war on land, civil war and claims originating from such wars;

The third, the existence of peace;

The fourth, peaceful solution of conflicts and organization of International Tribunals.

Private Law was distributed as follows:

To the Montevideo Committee, capacity, condition of foreigners, family relations and successions;

To that of Lima, all that is not included in the above enumeration, and also penal law.

Each committee shall ask from the American governments, concerning the questions submitted to it, detailed information on the internal legislation of the State, the judicial administrative precedents relating thereto, conventions, usages, solutions given to international incidents, and, in a word, the regulations that these governments judge most convenient for the point at issue, and, once in possession of such data, shall proceed to the codification of the matters entrusted to it, taking into consideration the projects for codes presented by the Brazilian Government, the principles in regard to which there already exist agreements in conventions or laws, the treaties of Montevideo in 1889 and the labors of the Pan-American Congresses, etc.

The projects prepared by the committees as well as the matters on which it is not possible to reach an understanding, shall be submitted to the International Conference at its next session in 1914.

It gives me great pleasure to record that the Third and Sixth Special Committee have already met here and have organised the plan of their labors.

In accordance with the proposal approved at the second meeting, the committee in charge of preparing projects on extradition and on the execution of foreign decisions were appointed.

The project on extradition presented at once thereafter, was approved at the meeting of the 13th, and, in its final wording at that of the 16th, and shall be sent to the American Governments, in accordance with what was agreed upon at the convention of 23rd of August, 1906.

As for the project on the extradition of foreign decisions, it was submitted to the International Conference at the meeting of the 17th, and, on the motion of the delegation for Mexico voted by the majority of the Conference, was referred to the Sixth Special Committee at Lima to receive the consideration it deserves.

Thus the conference labored from the 26th of June to the 19th of July, having held six ordinary meetings. In this space of time it organized a project on extradition and prepared the plans for its future labors.

We might have accomplished more if the projects offered by Brazil as the groundwork for the labors of the Conference had been known by all the delegates after their distribution among the different nations, and if, on the other hand, all the governments had furnished their representatives with the instructions required on the principal of the codification as had been agreed upon at the Pan-American Congress of 1906, in such a way that the Conference might at once, with vigor and method, have begun the preparation of the two codes, which was the reason of being and the object of its convocation.

Notwithstanding this, however, the first efforts of the International Conference of Jurists must not be held as sterile in the realisation of the extraordinary work that must be the codification of the Public and Private International Law of the two Americas; and even, upon mature consideration, the work done deserves applause for its moral effects, for its practical reach and its immediate fruits. The resolution not to dissolve the conference, which was adopted, but instead only to postpone its general sessions, and meanwhile to conserve it in the shape of groups



continually busy over their labors, denotes that all the nations represented continue convinced of the success of this fruitful attempt, and are, with seriousness and constancy, considering the codification of International Law as a possible, necessary and urgent work.

The plan that was conceived is methodical and sensible and is capable of engendering a solid and permanent construction, above all if, as is to be hoped, the governments be eager in furnishing the information requested by the special committees which is destined to facilitate their work. Finally, the preparation of the project on extradition—a matter of frequent application and evident practical reach—is a conquest already made and the first result obtained in this crusade in which we are engaged and bears witness at once to the capacity for work of the Conference and the possibility of the task that has been allotted to it.

It is therefore but justice to recognise that the International Conference of Jurists at this first gathering has given a vigorous start to the so much desired codification of International Law.

Before ending, allow me, Gentlemen delegates, to improve the opportunity to express my gratitude for the delicate attentions which you have lavished upon me and for your efficacious and loyal collaboration in the exercise of the most honourable function which you confided to me—that of presiding over the International Conference of Jurists.

Mr. JUAN ZORRILLA DE SAN MARTIN, Delegate for Uruguay:—Your Excellency, Gentlemen: On confiding to me the precious task, that I have to execute under the pressure required by the circumstances, of saying, in behalf of this assembly, its last words, a task out of proportion to my strength has been confided to me; for I have to express as faithfully as possible, the thoughts and sentiments of minds much superior to mine in their thoughts and sentiments.

It matters not: the representative of Uruguay in this assembly of American Jurists, although convinced of his personal shortcomings, had no right to refuse such an honour: his very brethren would have called him to account for his cravenness, however excusable it might be. I shall therefore penetrate, Gentlemen, valiantly in your innermost souls and I am sure not to err on finding there one predominating sentiment, the first that I must express: that of gratitude towards the government and the people of Brazil for the loving hospitality that they have offered us in this their splendid Capital, a reflex of their progress, and one of great affection towards this nation, amiable and generous, that we are about to leave and whose remembrance



can not rise in our minds without being followed by that deep and vague feeling that men of the Portuguese language have the privilege of expressing with their word, «Saudades», the sadness of departure, the hopes of welfare, the persistence of mutual affections that separation cannot destroy.

From the moment we shook the hand of the enlightened Chief Magistrate of the Brazilian Nation and received his friendly welcome, to this, in which we are to say farewell, all that has surrounded us has been amiable, all intelligent, all attentatively courteous.

It behoves me to tender thanks to all in the name of those that have appointed me the interpreter of their feelings to the illustrious statesman that presides over us and represents his government and even more, if more can be, that represents a great and venerable shade that seems to rise by his side and that once more calls for the homage of our American thought; to Mr. Pessoa, whose active and intelligent prudence, a privilege of superior men, with a delicate tact necessary to manage international susceptibilities, has known how to direct and bring to a happy end our deliberations, to our active and most intelligent General Secretary, Mr. Carneiro de Souza Bandeira; to all this young staff that under his orders has lavished upon us attentions and courtesies; to the press of Rio de Janeiro; to its society; and, lastly, to the Brazilian ladies that have extended to us the gentle happiness of their homes, and for whom, I am sure, all of you wish me to express the most sincere farewell—and your wish is justified, Gentlemen, she is the best portion of yourselves, the joy of your hearts, the angel of your blessed homes. But she is still more, the incorruptible vase in which your Brazilian treasures the virtues of your race and keeps, to transmit them to remote generations, the traditions of your country.

These titles of Brazil to our affections, however, would count for little, Gentlemen, if I could not recall at the same time and record those most noteworthy that recommend it to the gratitude of all American thought in the work of the codification of the International Law of the continent.

It was a Brazilian citizen that, at the Second Pan-American Congress at Mexico expressed for the first time the idea of this codification, and it was Brazil that, selected as the center for the development of this fruitful idea, has offered us the most efficacious elements for its materialisation. The monumental labors of the writers of this country, that has no superior among American nations in the possession of masters in, and students of, the science of law, the noteworthy projects in which Messrs.

Epitacio Pessoa and Lafayette Rodrigues Pereira have condensed that science, and which served as a basis for our actual debates and will so serve again in a great measure for those of the future; the solicitous zeal, the earnestness, the noble passion that we have all observed in the Brazilian mind in order that the idea might be carried forward to a happy realisation, are the great corner stones on which shall rest the monumental edifice whose foundations we have laid, and on which shall forever be engraved the glorious remembrance of Brazilian thought.

We should be denying justice, however, gentlemen, if we did not hasten to add that all the American states have joined in this zeal and noble passion.

The haste with which their greater number, almost all, answered to the call of that which had received the mission of convoking us, and the choice made of their most illustrious and representative men to enhance the decorum of this memorable assembly and give it a transcendental maning, are proofs sufficient that if Brazil was the first in the initiative and in the initial execution of the thought, none of its American brethren wishes to be second in fostering it as if it were its own, in loving it, in giving it decided assistance until it be transformed in a beauteous reality, until it be a title of honor for the whole continent.

In great part, thanks to this, Gentlemen, thanks to the elevated and mature judgment, thanks to the intelligence and to the scientific preparation, to the practical knowledge of the illustrious Americans that constitute this assembly, the International Conference of Jurists has been able to render fruitful its first gathering, by adopting the resolutions that our President has so exactly summarised and among them that which must be considered the principal and which declares the Conference not closed but adjourned, sending out its members to be centers, intelligently distributed on all the continent, of a sort of general consultation to the nations, thereby permitting it to apply a truly scientific method to the partial solution at first, and complete and final solution later, of this most important business: studying facts under the light of principles; deducting principles from the permanence and repetition of facts. These are the inductive and deductive methods we are familiar with and in no branch of law are they more applicable than to international law, a law essentially based on customs as you well know.

This, our principal resolution, is not a mere make-shift and much less a dilatory one, as might be supposed by minds not overdeep.

The transformation of this Assembly of Jurists, that seemed to be transitory, into a permanent body of investigation and study, whose members disperse to live two years in reciprocal correspondence and again congregate bringing with them the mator fruit of their investigations and studies, is a resolution that affects not merely the form of the subject that occupies us, but penetrates its depths, defines its essence.

It signifies the consecration of a postulate: that Truth and Justice in international law cannot lie in the conclusion of one human mind alone, however enlightened it may be, nor in the desires and interests of one nation, however great may be the titles it presents as compared with the others, it must be the product resulting from the convictions, the desires, the interests of all.

The codification of International Law in America is, therefore, a matter that cannot be put through in haste.

If, Gentlemen, the codification of the International Law of the most learned and experimental nations suffers long delays in the final wording of codes and conventions, how could we hasten this work of ours, new and alone in the history of human law, that should constitute the glory of our America and perhaps demonstrate that in fact we inhabit a new world?

In this case, Gentlemen, more than in any other, the deep Greek aphorism which says that «The beginning is half of the other half», seems to me to be applicable. Let us await, Gentlemen, the decision of science on this first resolution of the Conference of American Jurists; it cannot fail to approve our wise resolution and stimulate by its applause the continuation of our generous undertaking.

The time has not come, Gentlemen, when I might speak of the end of our work, as I have spoken of its promising beginning. It would be rashness to assert what we shall resolve: we do not know it: we do not as yet see clearly within ourselves; on the contrary, our imagination is stormed and shadowed by many unavoidable differences in regard to essential points of the law we wish to codify.

Yet it matters not, gentlemen. The navigator of the deep sea does not know the essence of the remote star that points out his path through the lonely depths, it suffices to him to see its firm light to be guided by it. Our American nations have their star more or less remote, more or less mysterious, but unmistakable to guide them on the path now entered upon. The American nations «conceived in liberty» according to the chiseled phrase of Lincoln, are all born of a common mother Democracy; and



democracy, Gentlemen, is nothing more than absolute respect for the human personality, with all its essential attributes: personal untransferable destiny, liberty to realise it, dignity, equality of species, equality before justice and before law. This is, therefore, Gentlemen, our defined object: to make one juridical society, duly constituted, of all American states; but make this society rest on those principles that give life to all of us: international democracy; liberty, equality, dignity for each one sustained and defended by the liberty, equality and dignity of all, by the strength residing in the communion of all.

Gentlemen, the work we have undertaken is great and new in the history of human law, to which we are about to embody a note not discording, to be sure, but perfectly in time with eternal justice, this our new American Law. We shall then increase the patrimony of Truth and of Justice that constitutes the happiness of mankind. But I do not wish, Gentlemen, that my desire that the last word we here pronounce be one of congratulation and above all of encouragement and hope, make me utter expressions that may be qualified, as American vanity and presumption.

To avoid this danger, if danger there be, I have recourse to that thought of Pascal's which you all know, to that corner stone among those that have arisen from the human mind: «Car enfin,» says the great thinker, «car enfin, qu'est-ce que l'homme dans la nature? Un néant á l'égard de l'infini; un tout á l'égard du néant. Un milieu entre rien et tout.»

We shall now work, Gentlemen, in America, with God's help, for the progress of all humanity with this thought as a stimulant to our will. This must be, Gentlemen, to be sure, the work of this Congress of American Jurists: nothing if you will in relation to absolute truth, but everything, a new truth upheld by a new body; a bridge, above all, placed between infinite time that has been and the more or less remote future, in which the relations of all nations, considered as members of one international body, shall be ruled only by principles of love and justice and the coming of time dreamt of by the poet shall have occurred «ou tous ceux qui sont fortes auront peur de leur force.» (Applause.)

**THE MINISTER OF FOREIGN AFFAIRS:**—The Government and people of Brazil are elated over the expressions of delicate friendship that the American delegations here assembled have so gently offered by their authorised interpret, the delegate for Uruguay. Having received the mission of organizing the present meeting of Jurists, we have endeavoured to correspond to the high purposes that prompted the resolution of the Third Pan-American Congress, and have been stimulated not only by



the international engagement assumed, but also by the conviction, stronger to-day than ever, we have of the value of the work that was allotted to you. Your President has spoken of same to you and I associate myself cordially with his applause of what you have accomplished and with the hopes that your future meetings shall be ever richer in results, thanks to your great efficiency and to the method that you have adopted for the labors of the Conference.

Before we separate, I wish to ask you to present to your Governments and nations, with the thanks that Brazil owes to them for their representation, the most sincere wishes that we, Brazilians, entertain for their happiness and prosperity. Personally, I offer my congratulations for what you have just accomplished, and with the hope that you shall have a fortunate return to your countries, we confidently await the day when it shall be given to us to again see you here united in the good work of juridically turning into brethren the American states, already brethren of the same continent in their political institutions and social aspirations.

Prolonged applause greeted the last words of Mr.  
Lauro Muller

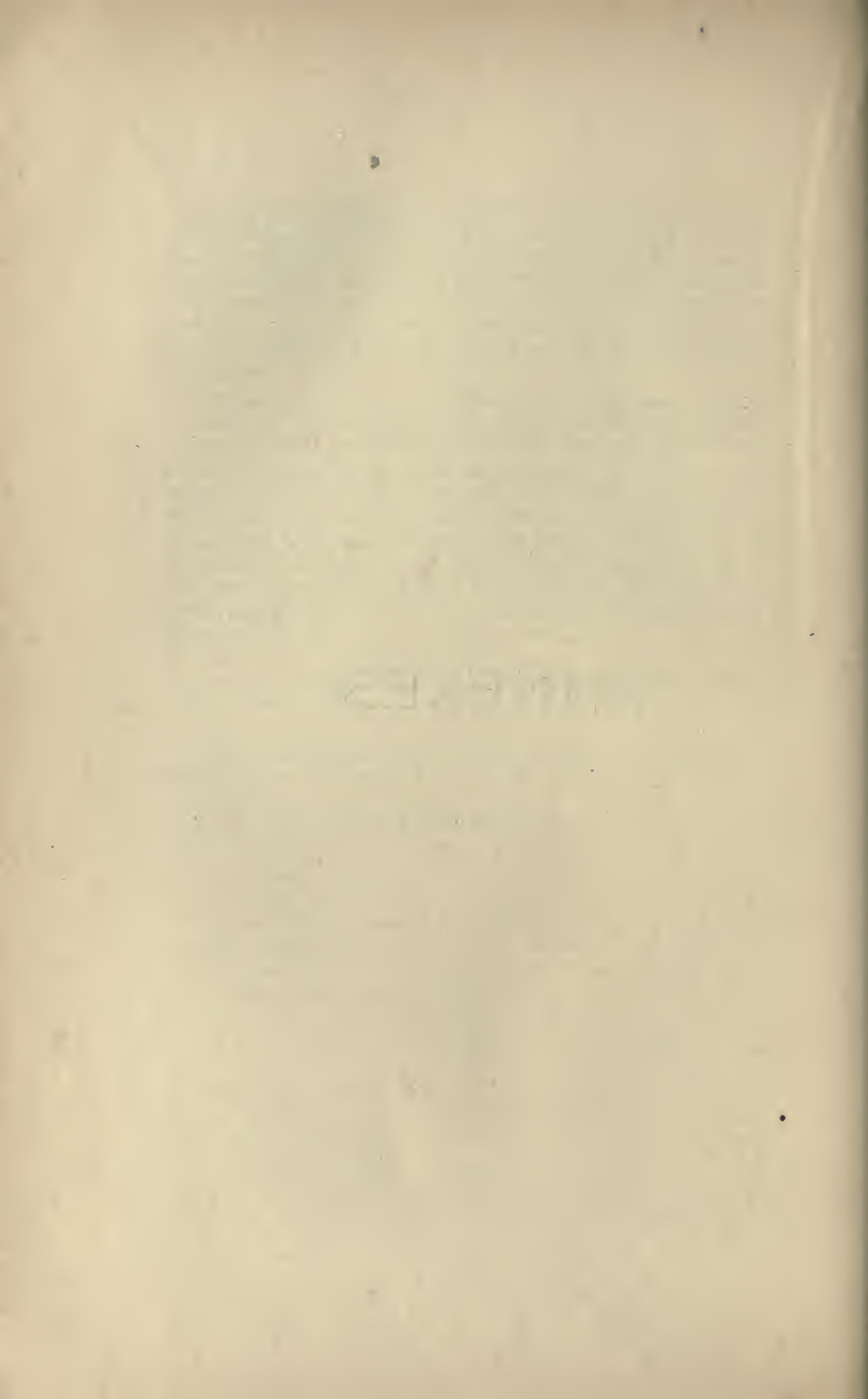
**THE PRESIDENT:**—All business being now terminated, I hereby declare the meeting to be closed.

The meeting ended at 5,20 P. M.

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ANNEXES

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REPORT OF THE COMMISSION OF FIVE MEMBERS  
ON THE PROJECTED REGULATIONS AND THE  
MOTION OF CHILE AND THE ARGENTINE  
REPUBLIC.

With date of 28th June last, the Congress of Jurists appointed a Commission, constituted by the undersigned members, to report on the proposal of the delegation of Brazil providing that no codification should be attempted by Congress without previous exchange of opinions with regard to certain topics, already defined by the above mentioned nations, as also any others that might be suggested by the delegations of other countries.

I.

Now, for the first time in the history of Nations, does the codification of international and civil law, so long a mere aspiration, seem in the way of becoming a reality.

Thanks to the solidarity of views that exists between the States of the New World, they have succeeded in anticipating European action and in coming to an agreement between themselves for the codification of the rules by which mutual international relations shall be governed.

To carry to a successful issue an undertaking of this magnitude, it must be done in a manner that, whilst embodying all possible advantages of codification, shall, as far as possible, avoid its drawbacks.

Two distinct tendencies have been disclosed in the course of discussion of the programme to be followed at the first meeting of this Congress: the one to the effect that codification should at once be proceeded with; the other that certain preliminary investigations should be undertaken with regard to the international conditions of the different States of America, and the



work of codification be thus brought into harmony with the requirements and aspirations of the New World at large.

It was, furthermore, urged in support of the latter opinion that it was in entire agreement with the dispositions of Art. 4 of the Convention of 1906, in virtue of which the present Congress was created.

We are happy to state that on the agreement (recapitulated at the close of this report) having been arrived at, all the undersigned, as also all the Delegates with whom opinions have been exchanged on the subject, admit that it would be impossible for the Commission to proceed to the complete codification of international law in the course of the present conference.

Each commission should investigate all the antecedents, as also all acts of an international character in which the will of the American States is collectively manifested and particularly the treaties of Montevideo of 1889 and the resolutions of the Pan-American conferences, whilst particular attention will be given to the project drafted by the distinguished Brazilian jurists, Drs. Eptacio Pessoa and Lafayette Rodrigues Pereira.

As soon as the account has been taken of all this information, the Commission, with regard to matters on which they already have come to a decision, shall draft whatever projects they may deem advisable, whilst drawing attention to the points on which no decision has been reached.

These projects, and the reports in which discrepancies were registered, shall be printed in Spanish, Portuguese, English and French, for distribution to each of the Governments represented at the Congress, such publicity being the most effective way of attracting the criticism requisite to ensure results being as perfect as possible, and shall be afterwards subjected to investigation by the Congress of Jurists following.

Projects that secure a two-thirds majority of the Congress shall be submitted to the consideration of the next International Pan-American Congress, or should the Governments so resolve, be adopted by diplomatic agreement.

## II

The motions of the Delegations of Chile and the Argentine Republic, already referred to, are an instance of the complexity of the mission entrusted to this Congress. They are of the opinion that, before proceeding to the definite codification, some exchange of opinions would be advisable on fundamental points, principally as regards the conception of codification, the deter-

mination of the matters to be dealt with and the method of same.

In any case, the motion presented by the Delegation for Chile at the fourth Pan-American Conference, should be taken into consideration, in virtue of which codification should be subdivided into two sections: the one embodying matters of world-wide, and the other purely American interests.

The Delegate for Chile, responsible for the foregoing proposition, points out that it was not his intention, as seems to have been imagined, to discriminate between these two groups of subjects in a manner that might tend to the creation of rules of exception or opposed to international law. The preamble to this proposition shows the true meaning to have been that matters of world-wide interest should be referred to the Hague Conference for discussion by all the States of the Globe. There is, however, nothing to recommend such a proceeding in the case of purely American matters, i.e., that specially and directly interest this continent.

The observations contained in the memorial presented by the Delegations of Chile and the Argentine Republic and in that presented by the Delegation of Chile at the Fourth Pan-American Conference are, in our opinion, worthy of the most careful attention.

With regard to some of these ideas, the undersigned have given expression to their opinions in the project of regulations annexed, whilst as regards others, we are of the opinion that it will be more convenient for each of the commissions, into which the Congress is to be sub-divided, to decide for itself the relative importance they attach thereto.

### III

Although agreed by the undersigned that the actual Congress should occupy itself in the first place with the organisation and methodisation of the work of codification, we are of the opinion that two commissions might be appointed at the outset to bring before the Assembly at the next meeting the only two projects yet agreed upon, treating, the one of Extradition and the other of the Execution of Judicial Sentences.

In view of the foregoing, we now have the honour of proposing the acceptance of the following resolutions by the International Conference of Jurists:—

1. That the attached project of the regulations for the International Congress of Jurists be approved.

2. That two commissions, of five members each, be hereby appointed to prepare a project of extradition and a second for the execution of foreign sentences.

3. That the proposal to constitute six special commissions to organise the codification of international law shall be approved.

4. To fix the month of June, 1914, as the date for the second meeting of the Congress of Jurists .

Given at the Monroe Palace, in the City of Rio de Janeiro, on July 6th, 1912.

*John Bassett Moore, N. Quirno Costa, Candido Oliveira,  
Alejandro Alvarez and Hernan Velarde.*

NOTE.—The report of the Commission was signed by the Delegate of the United States of America provisionally, with reserve as to the recommendation to appoint commissions for preparation of codes for extradition and for execution of foreign sentences to be adopted by Congress during the actual conference.

*John Bassett Moore.*

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PROJECT FOR ORGANISATION AND METHODISATION OF THE WORK OF THE COMMISSIONS INTO WHICH THE INTERNATIONAL CONGRESS IS DIVIDED.

Art. 1. The International Congress of Jurists entrusted with the elaboration of a project of International Public Law and another of International Private Law, intended to regulate the relations between the States of America, will be divided into six commissions.

Art. 2. These commissions shall be constituted as follows:—

1.—The first will operate in Washington and be constituted by the delegates: Mr. John Bassett Moore, the President, (United States of America); Mr. Frederick Van Dyne (United States of America); Mr. Victor Manuel Castillo (Mexico); Mr. Antonio Batres Jaregui (Guatemala); Mr. José Mattos (Guatemala); Mr. Alonso Reyes Guerra (Salvador); a Delegate of Costa Rica; and General D. D. Santiago de la Guardia (Panama).

This commission, on meeting at Washington, may agree to its sub-division, if possible in two equal parts, with indication of the subjects to be investigated and the delegates constituting same.

2.—The second commission will operate in Rio de Janeiro, and be constituted by delegates: Mr. Epitacio Pessoa, president (Brazil); Mr. José Maria Uricoechea (Columbia); Mr. Hernan Velarde (Peru); and a delegate from Cuba.

3.—The third commission shall operate at Santiago de Chile, and be constituted by the delegates: Mr. Norberto Quirno Costa, president, (Argentina); Mr. Alejandro Al-

varez (Chile); Mr. Victor Saujines (Bolivia); Mr. Matias Alonso Criado (Ecuador).

4.—The fourth commission shall operate in Buenos Aires and be constituted by the delegates: Mr. Miguel Cruchaga Tocornal, president, (Chile); Mr. Carlos Rodriguez Larreta (Argentina); Mr. Roberto Ancizar (Colombia); Mr. Juan Zorrilla S. Martin (Uruguay).

5.—The fifth commission shall operate in Montevideo and be constituted by the delegates: Mr. Cecilio Baez, president, (Paraguay); Mr. Euzebio Ayala (Paraguay); Mr. José Podero Varela (Uruguay); Mr. Candido Luiz Maria de Oliveira (Brazil).

Art. 3. Should any of the above mentioned resign or be unable to exercise the functions of delegate, the special commission to which he belongs shall request the respective Government to appoint a substitute.

Art. 4. The delegates appointed by committees not represented at the present conference, as also the second delegate designated by countries which up to date had designated one only, shall, with the consent of the government of the respective country, be attached to one or more of the different commissions.

Art. 5. The first commission shall have charge of the preparation of projects relating to maritime war and the rights and duties of neutrals; the second, of projects relating to war on land, civil war and claims of foreigners arising from such wars; the third, of projects relating to same in a state of peace; the fourth, of projects for the pacific solution of conflicts and the organisation of international tribunals; the fifth, of those relating to the following matters of private international law: capacity, condition of foreigners, family law and succession; the sixth shall have charge of projects relating to matters of private law not included in this enumeration, but inclusive of law referring to conflict of penal law.

Art. 6. The commissions established in the preceding articles shall, within the limits of the specified subject, have charge of the elaboration of the projects of the Code of International Public Law and of International Private Law, in accordance with the following dispositions:—

Art. 7. For elaboration of these projects, each commission shall request from the respective Government detailed information, pertaining to the subject agreed upon, relative to the internal legislation of that country, judicial or administrative resolutions, conventions, usages, international cases and the solution given thereto, and, finally, the regulations that these Governments may judge most adequate for the object in view.

Such information, with the exception of the printed documents annexed or mentioned therein, shall be printed in Spanish, Portuguese, English and French, and twenty-five copies of each information be sent to each Government.

Art. 8. On receipt of the documents indicated in the preceding article, the commission shall proceed to the preparation of the projects..

With that end in view, they will likewise take into consideration the code of international public law and the code of international private law drawn up by the Brazilian jurists, Drs. Epitacio Pessoa and Lafayette Rodrigues Pereira respectively.

Preferential attention will, as the Convention of 1906 recommends, be given to the principles and points that have been uniformly accepted in treaties and conventions and are in conformity with the national laws of the States of America and particularly with the treaties of Montevideo of 1889, the conventions subscribed by International American Conferences, the debates to which one and the other gave origin and any further matters that represent effective judicial progress or tend to the elimination of discrepancies or conflicts between the states themselves.

Art. 9. The projects elaborated by each commission shall be printed in Spanish, Portuguese, English and French and be transmitted to each Government. The same shall be done with regard to points on which the commission may have failed to come to an agreement. These projects and discrepancies shall be treated of at the next Conference.

Each commission may obtain from one or more Governments the appointment of specialists for study of special subjects.

Art. 10. Every project adopted by the Congress by vote of two-thirds of the delegations present shall be discussed at the next International Pan-American Conference or be immediately adopted by the Governments by convention.

Art. 11. Each Commission shall meet on the date indicated by the respective President.

Art. 12. The expenditure on preparation and printing of the reports and projects specified in the preceding articles, as also any others relating to the work of the respective commissions, shall be defrayed in the manner described in Article 6 of the Convention of 1906, under which the Congress of Jurists was established.

Given at the Monroe Palace, Rio de Janeiro, 6th July, 1912.—*John Bassett Moore, N. Quirno Costa, Alejandro Alvarez, Candido Oliveira, Hernan Velarde.*

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## DRAFT OF INSTRUCTIONS FOR THE INTERNATIONAL CONGRESS OF JURISTS.

Art. 1. The President of the Congress, duly elected by the majority of the delegates present at the session of installation, shall perform this function until the next conference. The Congress shall have a General Secretary, appointed by the Government of the country in which the assembly meets. The precedence of the delegates shall be determined alphabetically by order of their respective nations. The substitute for the President, in case of absence, shall be chosen by ballot of the delegates during the first session.

Each delegation shall indicate the delegate who, under such circumstances, should preside at the session.

Art. 2. The attributes of the President are as follows:—

1.—To preside at the session of the Congress and put into discussion the matters specified in the Order of the Day.

2.—To give precedence of discussion to delegates in order of their requests for same.

3. To decide all questions of details arising in the course of discussion and on the request of any delegate to submit same to general deliberation.

4.—To submit matters already discussed to vote and announce the result of same.

5.—Through the agency of the General Secretary, to designate at the close of each session the matters that shall be treated in the subsequent session.

6.—To make arrangements that, after approbation of the minutes, the Secretary shall give account to the Congress of the matters or projects presented at the preceding session.

7.—To take the measures necessary to maintain discipline and see that standing orders are complied with.

The attributes of the General Secretary are as follows:—

1.—The direction of the assistant secretaries, clerks, and other employees necessary for the service of the Congress and the distribution of its work amongst them.

2. To transact the official correspondence of the Congress in accordance with the instructions of same and of the President.

3.—To edit the acts or minutes of each session and take measures for printing and distribution of same amongst the Delegates.

4.—To draw up the order of the day in accordance with the instructions of the President.

5.—To examine the translations made by secretaries or interpreters.

6.—To distribute to the special commissions the matters that respectively concern them and to place at their disposal the elements necessary for the accomplishment of their mission.

Art. 4.—Each delegation shall have one vote only. Votes will be taken verbally, excepting when it is expressly desired that the voting shall be in writing, in which case each delegation shall deposit a ticket with the name of the nation it represents and the sense in which it votes inscribed thereon.

Art. 5.—The presence of at least twelve members of the signatory countries of the Convention of 1906 will be requisite to constitute the Congress.

No session of the congress can be held without two-thirds of the delegations being present.

Art. 6. For any resolution to be considered as approved, an absolute majority of votes of the delegations present at the session directly preceding the voting is indispensable. Delegations that communicate their votes in writing to the General Secretary shall be considered as present.

\* Art. 7. When by reason of absence or abstention, the majority stipulated by the preceding article is found not to have been realised, voting shall be repeated at the subsequent session, and should abstention be persisted in, the vote will be taken on the majority or two-thirds vote of the non-abstaining delegations.

Art. 8. Delegates may speak or express opinions in writing in their own language. The delegate or one of the interpreters or secretaries of the Congress shall draw up a summary of such written communication in whatsoever language such delegate may choose.

Art. 9. No delegate may speak more than once or for more than thirty minutes on the same subject, excepting the author of the respective project who may speak for fifteen minutes for a second time. Any delegate may speak during five minutes for personal explanation or to substantiate his vote.

Art. 10. The deliberations of the Congress will not be public. Only delegations, secretaries, assistants, and employees of the Congress will have the right of entry during sessions, except on special permission from the commission.

The General Secretary shall communicate to the Press a summary of the proceedings of each session, unless otherwise resolved.

Art. 11. The reports and motions presented to the Congress shall be printed in Spanish, Portuguese, French and English, for distribution to all the delegates and for study and discussion of same at the session subsequent to that at which such translations were distributed.

Art. 12. On all matters unprovided for by the present regulations, a majority vote of the Congress shall prevail.

*John Bassett Moore, N. Quirno Costa, Candido do Oliveira, Alejandro Alvarez, Hernan Velarde.*

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